IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

JAIME ANDRES MARTINEZ,	§	
	§	
Plaintiff,	§	
	§	
v.	§	
	§	**CIVIL ACTION NO. 3:15-cv-2349**
TYSON FOODS, INC., ELIEZER HERNANDEZ, MANUEL RETANA, AND PETER BERNARD,	§ § §	
	§	
Defendants.	§	

DEFENDANTS' INDEX OF DOCUMENTS PURSUANT TO LR 81.1

Exhibit A	Civil Case Information Sheet from Dallas County, Texas Court (filed May 18, 2015
Exhibit B	Plaintiff's Original Petition and Request for Disclosures (filed with Dallas County District Court on May 18, 2015)
Exhibit C	Notice of Hearing for Dismissal for Want of Prosecution (filed with Dallas County District Court on May 29, 2015)
Exhibit D	Letter from Marisol Lopez regarding requests for Citations for Defendants (filed with Dallas County District Court on June 11, 2015)
Exhibit E	Citation for Defendant Tyson Foods, Inc. issued on June 16, 2015
Exhibit F	Citation for Defendant Peter Bernard issued on June 16, 2015
Exhibit G	Citation for Defendant Eliezer Hernandez issued on June 16, 2015
Exhibit H	Citation for Defendant Manuel Retana issued on June 16, 2015
Exhibit I	Citation for Defendant Manuel Retana with Officer's Return (filed with Dallas County District Court on June 24, 2015)

Exhibit J	Citation for Defendant Tyson Foods, Inc. with Officer's Return signed by Jose L. Torres (filed with Dallas County District Court on June 24, 2015)
Exhibit K	Citation for Defendant Eliezer Hernandez with Officer's Return signed by Jose L. Torres (filed with Dallas County District Court on June 24, 2015)
Exhibit L	Citation for Defendant Peter Bernard with Officer's Return signed by Jose L. Torres (filed with Dallas County District Court on June 24, 2015)
Exhibit M	Entry of Demand for Jury paid by Defendants, (filed with Dallas County District Court on July 10, 2015)
Exhibit N	Defendants' Original Answer (filed with Dallas County District Court on July 10, 2015)

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Questions and Answers on Images

CASE NO. DC-15-05828
JAIME MARTINEZ VS. TYSON FOODS INC, ET AL

Selected Event	Image	Page Count
07/10/2015 ORIGINAL ANSWER - GENERAL DENIAL	Martinez (Jaime) - Defendants' Original Answer.pdf	2

Other Events on This Case	Image	Page Count
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	Plaintiff's Original Petition & RFD.pdf	16
05/29/2015 NOTICE OF HEARING / FIAT	NOTICE OF HEARING / FIAT	2
06/11/2015 REQUEST FOR SERVICE	Letter to File Clerk.pdf	1
06/16/2015 CITATION ISSUED	DC15-5828.pdf	2
	DC15-5828 (1).pdf	2
	DC15-5828 (2).pdf	2
	DC15-5828 (3).pdf	2

Other Images on This Case	Image	Page Count
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06/24/2015 RETURN	HERNANDEZ, ELIEZER - CITATION	2
06/24/2015 RETURN	TYSON FOODS INC - CITATION	2
06/24/2015 RETURN	BERNARD, PETER - CITATION	2

$38.00

58140. 115

EXHIBIT
Blumberg No. 5119
Docket

CIVIL CASE INFORMATION SHEET

CAUSE NUMBER *(FOR CLERK USE ONLY)*: ______________ COURT *(FOR CLERK USE ONLY)*: ______________

STYLED Jaime Andres Martinez vs. Tyson Foods, Inc, Eliezer Hernandez, Manuel Retana and Peter Bernard
(e.g., John Smith v. All American Insurance Co; In re Mary Ann Jones; In the Matter of the Estate of George Jackson)

A civil case information sheet must be completed and submitted when an original petition or application is filed to initiate a new civil, family law, probate, or mental health case or when a post-judgment petition for modification or motion for enforcement is filed in a family law case. The information should be the best available at the time of filing.

1. Contact information for person completing case information sheet:

Name: Marisol Lopez
Email: marisol at lawyerforu.com
Address: 301 W. Avenue D
Telephone: 972-205-1110
City/State/Zip: Garland, TX 75040
Fax: 1-866-232-2077
Signature: [signature]
State Bar No: 24050952

Names of parties in case:

Plaintiff(s)/Petitioner(s): Jaime Andres Martinez

Defendant(s)/Respondent(s): Tyson Foods, Inc., Eliezer Hernandez, Manuel Retana, Peter Bernard

[Attach additional page as necessary to list all parties]

Person or entity completing sheet is:

- [x] Attorney for Plaintiff/Petitioner
- [ ] *Pro Se* Plaintiff/Petitioner
- [ ] Title IV-D Agency
- [ ] Other: ______

Additional Parties in Child Support Case:

Custodial Parent: ______

Non-Custodial Parent: ______

Presumed Father: ______

2. Indicate case type, or identify the most important issue in the case *(select only 1)*:

Civil

Contract

Debt/Contract
- [ ] Consumer/DTPA
- [ ] Debt/Contract
- [ ] Fraud/Misrepresentation
- [ ] Other Debt/Contract: ______

Foreclosure
- [ ] Home Equity—Expedited
- [ ] Other Foreclosure
- [ ] Franchise
- [ ] Insurance
- [ ] Landlord/Tenant
- [ ] Non-Competition
- [ ] Partnership
- [ ] Other Contract: ______

Injury or Damage

- [ ] Assault/Battery
- [ ] Construction
- [ ] Defamation

Malpractice
- [ ] Accounting
- [ ] Legal
- [ ] Medical
- [ ] Other Professional Liability: ______
- [ ] Motor Vehicle Accident
- [x] Premises

Product Liability
- [ ] Asbestos/Silica
- [ ] Other Product Liability List Product: ______
- [x] Other Injury or Damage: Nonsubscriber

Real Property

- [ ] Eminent Domain/ Condemnation
- [ ] Partition
- [ ] Quiet Title
- [ ] Trespass to Try Title
- [ ] Other Property: ______

Related to Criminal Matters

- [ ] Expunction
- [ ] Judgment Nisi
- [ ] Non-Disclosure
- [ ] Seizure/Forfeiture
- [ ] Writ of Habeas Corpus—Pre-indictment
- [ ] Other: ______

Employment

- [ ] Discrimination
- [ ] Retaliation
- [ ] Termination
- [ ] Workers' Compensation
- [ ] Other Employment: ______

Other Civil

- [ ] Administrative Appeal
- [ ] Antitrust/Unfair Competition
- [ ] Code Violations
- [ ] Foreign Judgment
- [ ] Intellectual Property
- [ ] Lawyer Discipline
- [ ] Perpetuate Testimony
- [ ] Securities/Stock
- [ ] Tortious Interference
- [ ] Other: ______

Family Law

Marriage Relationship

- [ ] Annulment
- [ ] Declare Marriage Void

Divorce
- [ ] With Children
- [ ] No Children

Post-judgment Actions (non-Title IV-D)

- [ ] Enforcement
- [ ] Modification—Custody
- [ ] Modification—Other

Title IV-D

- [ ] Enforcement/Modification
- [ ] Paternity
- [ ] Reciprocals (UIFSA)
- [ ] Support Order

Other Family Law

- [ ] Enforce Foreign Judgment
- [ ] Habeas Corpus
- [ ] Name Change
- [ ] Protective Order
- [ ] Removal of Disabilities of Minority
- [ ] Other: ______

Parent-Child Relationship

- [ ] Adoption/Adoption with Termination
- [ ] Child Protection
- [ ] Child Support
- [ ] Custody or Visitation
- [ ] Gestational Parenting
- [ ] Grandparent Access
- [ ] Parentage/Paternity
- [ ] Termination of Parental Rights
- [ ] Other Parent-Child: ______

Tax

- [ ] Tax Appraisal
- [ ] Tax Delinquency
- [ ] Other Tax

Probate & Mental Health

Probate/Wills/Intestate Administration
- [ ] Dependent Administration
- [ ] Independent Administration
- [ ] Other Estate Proceedings
- [ ] Guardianship—Adult
- [ ] Guardianship—Minor
- [ ] Mental Health
- [ ] Other: ______

3. Indicate procedure or remedy, if applicable *(may select more than 1)*:

- [ ] Appeal from Municipal or Justice Court
- [ ] Arbitration-related
- [ ] Attachment
- [ ] Bill of Review
- [ ] Certiorari
- [ ] Class Action
- [ ] Declaratory Judgment
- [ ] Garnishment
- [ ] Interpleader
- [ ] License
- [ ] Mandamus
- [ ] Post-judgment
- [ ] Prejudgment Remedy
- [ ] Protective Order
- [ ] Receiver
- [ ] Sequestration
- [ ] Temporary Restraining Order/Injunction
- [ ] Turnover

4. Indicate damages sought *(do not select if it is a family law case)*:

- [ ] Less than $100,000, including damages of any kind, penalties, costs, expenses, pre-judgment interest, and attorney fees
- [ ] Less than $100,000 and non-monetary relief
- [ ] Over $100, 000 but not more than $200,000
- [ ] Over $200,000 but not more than $1,000,000
- [x] Over $1,000,000

Rev 2/13

EXHIBIT A

Blumberg No. 5119

STATE OF TEXAS }
COUNTY OF DALLAS }

I, FELICIA PITRE, Clerk of the District of Dallas County, Texas, do hereby certify that I have compared this instrument to be a true and correct copy of the original as appears on record in my office.

GIVEN UNDER MY HAND AND SEAL of said Court, at office in Dallas, Texas, this 13 day of July, A.D., 2015.

FELICIA PITRE, DISTRICT CLERK
DALLAS COUNTY, TEXAS

By [signature] Deputy

FILED
DALLAS COUNTY
5/18/2015 2:36:43 AM
FELICIA PITRE
DISTRICT CLERK

Freeney Anita

DC-15-05828

CAUSE NO. ___________

JAIME ANDRES MARTINEZ, PLAINITFF,	§ § §	IN THE DISTRICT COURT
VS.	§ §	D-95TH JUDICIAL DISTRICT
TYSON FOODS, INC., ELIEZER HERNANDEZ, MANUEL RETANA, AND PETER BERNARD, DEFENDANTS.	§ § § §	DALLAS COUNTY, TEXAS

PLAINTIFF'S ORIGINAL PETITION AND REQUESTS FOR DISCLOSURES

COMES NOW, Plaintiff, JAIME ANDRES MARTINEZ, and complains of TYSON FOODS, INC. (hereinafter referred to as "Tyson") AND ELIEZER HERNANDEZ, MANUEL RETANA, PETER BERNARD AND ELEAZAR HERNANDEZ, DEFENDANTS, hereinafter referred to by name or as Defendants, and for cause of action would respectively show the following:

I.
DISCOVERY

Discovery in this cause of action is intended to be conducted under Level 2 of Rule 190.3 of the Texas Rules of Civil Procedure.

II.
PARTIES

Plaintiff, JAIME ANDRES MARTINEZ, is an individual residing in Haltom City, Texas, Tarrant, County.

Defendant, TYSON FOODS, INC., is a foreign corporation organized under the laws of the state of Delaware and doing business in Dallas County, Texas and Tarrant County, Texas. Defendant may be served with process by delivering citation and attached petition to its

Blumberg No. 5119
EXHIBIT
B

registered agent for service on file with the Texas Secretary of State: CT Corporation System, 1999 Bryan St., Ste 900, Dallas, Texas 75201-3136.

Defendant, ELIEZER HERNANDEZ is an individual residing in Fort Worth, Texas, Tarrant County, and may be served with process by delivering citation and attached petition to 2917 Hale Ave., Fort Worth, Texas 76106 or at his place of employment at Tyson Foods, Inc. at 6350 Browning Court, North Richland Hills, TX 76180, or any other place he may be found.

Defendant, MANUEL RETANA is an individual residing in Haltom City, Texas, Tarrant County, and may be served with process by delivering citation and attached petition to 5107 Dana Dr., Haltom City, Texas 76117 or at his place of employment at Tyson Foods, Inc. at 6350 Browning Court, North Richland Hills, TX 76180, or any other place he may be found.

Defendant, PETER BERNARD is an individual residing in Desoto, Texas, Dallas County, and may be served with process by delivering citation and attached petition to 720 Courson Dr., Desoto, Texas 75115 or at his place of employment at Tyson Foods, Inc. at 6350 Browning Court, North Richland Hills, TX 76180, or any other place he may be found.

To the extent the above-named Defendants are conducting business pursuant to a tradename or assumed name, then suit is brought against them pursuant to the terms of RULE 28, TEXAS RULES OF CIVIL PROCEDURE, and the Plaintiff hereby demands that upon answering this suit, that they answer in their correct legal name and assumed name.

III.
VENUE/JURISDICTION

Jurisdiction is proper because the amount in controversy exceeds the minimum jurisdictional limits of this Honorable Court.

Venue is proper in Dallas County pursuant to §15.002(a)(2) of the Tex. Civ. Prac. & Rem. C. because Defendant PETER BERNARD is an individual residing at 720 Courson Dr., Desoto, Texas 75115, Dallas County. Proper venue against Defendant PETER BERNARD is established giving the Court venue over all Defendants in all claims or actions arising out of the same transaction or occurrence pursuant to Tex. Civ. Prac. & Rem. C. §15.005.

IV. FACTS

On or about June 24, 2013, Plaintiff Jamie Andres Martinez, was present on Defendant Tyson Foods, Inc.'s property located at 6350 Browning Court, North Richland Hills, TX 76180. Plaintiff was an employee of Defendants and performing his work duties at the time of the incident. Defendant Manuel Retana, the Plaintiff's direct manager and employee of Tyson Foods, Inc., was responsible for overseeing the production process and the safety therein of Plaintiff and their employees. Plaintiff was working preparing the food under the direct supervision of Defendant Manuel Retana when Defendant Eliezer Hernandez ran the forklift he was operating into a metal rack while attempting to load metal bars containing large pieces of meat onto said forklift. Defendant Manuel Retana collided the forklift with the metal rack causing a heavy metal bar weighing approximately one hundred pounds to fall on Plaintiff's head causing a head injury among other injuries.

Defendant Peter Bernard, employee of Tyson Foods, Inc., is employed as the plant's safety manager and is responsible for overseeing all safety procedures put in place at the plant. Following the incident, Defendant Peter Bernard had the metal bar that fell on Plaintiff's head to be soldered to prevent any further injuries should the same occurrence arise in the future.

Defendant Peter Bernard and Defendant Manuel Retana knew or should have known that it was foreseeable that should an employee collide with the rack as they are loading heavy meat onto a forklift that loose metal bars will easily fall on the employees that are working in the same area. Defendant Peter Bernard threatened Plaintiff that should he not sign a release of claim he would be terminated. Plaintiff did not sign a release of claim and instead sought medical care on his own. Once the company received notification from a private doctor the company allowed Plaintiff to work again.

V.
DEFENDANT'S STATUS REGARDING BURDEN OF PROOF

Defendant TYSON FOOD, INC. did not have workers' compensation insurance coverage at the time of the incident made the basis of this lawsuit, therefore, pursuant to TEXAS LABOR CODE § 406.033, it is not a defense that:

1. The employee was guilty of contributory negligence;
2. The employee assumed the risk of injury; or
3. The injury was caused by the negligence of a fellow employee.

A cause of action may not be waived by an employee before the employee's injury. Any agreements by an employee to waive a cause of action or any right described above before the employee's injury is void and unenforceable.

VI.
CAUSES OF ACTION

A. NEGLIGENCE OF DEFENDANT, TYSON FOODS, INC.

Defendant Tyson Food's conduct, and that of its agents, servants, and employees, acting within the course and scope of their employment, constituted negligence and a breach of the duty to exercise that degree of care that would be used by an ordinary entity under the same or similar circumstances in the following respects:

1. In failing to maintain the premises in a reasonably safe condition;
2. In failing to provide a reasonably safe workplace for Plaintiff;
3. In allowing Plaintiff to work in unreasonably unsafe conditions;
4. Defendant's actions compelled Plaintiff to keep working under unsafe conditions;
5. Negligently not securing the metal bars that held a metal rack together that was holding heavy meat;
6. In failing to properly inspect and maintain the work area in question to discover the unsafe condition;
7. In failing to provide, follow and enforce rules, regulations and/or safety instructions for the safety of its employees;
8. In failing to ensure Defendant Eliezer Hernandez had proper training and/or licensure under OSHA to operate the forklift at the time of the incident;
9. In failing to ensure that Plaintiff was employed in a manner that was not detrimental to his health;
10. In failing to adequately monitor and/or supervise work performed in order to make sure work was performed in safe manner and workers were not being exposed to dangerous, unsafe conditions and/or practices;
11. In failing to promulgate, implement, enforce, and/or ensure compliance with adequate safety procedures, policies, and practices;
12. In rushing and pushing workers on a fast paced schedule;
13. In failing to take all reasonable precautions for the safety of all workers;

14. In failing to eliminate unsafe methods and operations;

15. In failing to provide training to Plaintiff and/or his co-workers;

16. In failing to hold safety meetings and/or posting safety rules;

17. In failing to provide the proper equipment for which to do the work;

18. In failing to provide adequate equipment to move and/or store materials and/or frozen heavy meat;

19. In failing to provide adequate assistance in the moving of frozen heavy meat

20. In failing to adequately train Defendant Peter Bernard and Defendant Manuel Retana in maintiaing a safe work place;

21. In failing to adequately train Defendant Eliezer Hernandez in the operation of a forklift; and

22. In failing to have a licensed operator operating the forklift at the time of the incident.

Plaintiff, while in the course and scope of his employment for Defendants, and under the direction and supervision of other employees, sustained injury by the careless and negligent acts of the Defendant and/or its employees. Each and all of the foregoing acts and omissions, singularly or in combination, were a proximate cause of Plaintiff's injuries and damages set out in this Petition and in an amount that she would show himself entitled at the time of the trial.

B. GROSS NEGLIGENCE OF DEFENDANT, TYSON FOODS, INC.

Defendant's acts and/or omissions as described above demonstrated such entire want of care that said acts and/or omissions were the result of actual conscious indifference to the rights, safety, and/or welfare of Plaintiff Jaimes Martinez. Such acts and/or omissions, singularly or in combination, were a direct and proximate cause of Plaintiff's injuries and damages.

Furthermore, Plaintiff would show to the Court that the condition of the work area on which

Plaintiff was working had continued for such period of time that, had Defendant exercised ordinary care in the maintenance of the work area, it would have been noticed and corrected by Defendant. In fact, Defendant had knowledge that the metal bar was not soldered and therefore may fall on an employee, but yet negligently continued to allow this unsafe conduct to continue within the area of work without any safeguards. The conditions just described above posed an unreasonable risk of harm to Plaintiff and others in that there was such a probability of a harmful event occurring that a reasonably prudent person would have foreseen that the event did occur or a similar event was likely to happen again. That is, Defendant did not exercise reasonable care to reduce or eliminate the risk even after having knowledge of said unsafe practices. The negligent, careless, or reckless acts or omissions of Defendant consisted of one or more of the following:

1. Failure to properly inspect and maintain the work area in question to discover the unsafe condition;

2. Failure to give adequate and understandable warnings to Plaintiff of the unsafe condition of the working area;

3. Negligent placement of loose metal bar;

4. Failing to eliminate unsafe conditions after having actual, subjective awareness of the risk of said unsafe condition posed to employees and/or Plaintiff;

5. Failure to provide necessary and proper procedures;

6. Failing to eliminate unsafe conditions when viewed objectively from Defendant Tyson Food's standpoint, said unsafe condition at the time Plaintiff was injured, involved an extreme degree of risk, considering the probability and magnitude of the potential harm to others;

7. Negligently rushed and pushed employees on a fast paced schedule without regard to said unsafe conditions; and

8. Failing to have a licensed operator driving the forklift at the time of the incident.

Plaintiff, while in the course and scope of his employment for Defendants, and under the direction and supervision of other employees, sustained injury by the careless and negligent acts of the Defendant and/or its employees. Each and all of the foregoing acts and omissions, singularly or in combination, were a proximate cause of Plaintiff's injuries and damages set out in this Petition and in an amount that she would show himself entitled at the time of the trial.

C. NEGLIGENCE OF DEFENDANTS, MANUEL RETANA AND PETER BERNARD

Plaintiff would show the Court that the negligent acts and omissions of Defendants, Manuel Retana and Peter Bernard, as set out herein, separately and collectively, were a direct and proximate cause of the incident in question and the resulting injuries and damages sustained by Plaintiff. Said acts and omissions by Defendants are, including, but not limited to the following:

1. In failing to maintain the premises in a reasonably safe condition;
2. In failing to provide a reasonably safe workplace for Plaintiff;
3. In allowing Plaintiff to work in unreasonably unsafe conditions;
4. Defendants' actions compelled Plaintiff to keep working under unsafe conditions;
5. Negligently allowing a heavy metal bar sitting on a metal rack to be loose so that should movement occur said bar could and/or would collapse on top of Plaintiff thereby creating unsafe conditions;
6. In failing to warn Plaintiff that the metal bar was loose thereby unsafe and/or would require extra care;
7. In failing to properly inspect and maintain the work area in question to discover the unsafe condition;
8. In failing to provide, follow and enforce rules, regulations and/or safety instructions for the safety of its employees;

9. In failing to ensure that Plaintiff was employed in a manner that was not detrimental to his health;

10. In failing to adequately monitor and/or supervise work performed in order to make sure work was performed in safe manner and workers were not being exposed to dangerous, unsafe conditions and/or practices;

11. In failing to promulgate, implement, enforce, and/or ensure compliance with adequate safety procedures, policies, and practices;

12. In rushing and pushing workers on a fast paced schedule;

13. In failing to take all reasonable precautions for the safety of all workers;

14. In failing to eliminate unsafe methods and operations;

15. In failing to provide training to Plaintiff and/or his co-workers;

16. In failing to hold safety meetings and/or posting safety rules;

17. In failing to provide the proper equipment for which to do the work;

18. In failing to provide adequate equipment to move and/or store materials and/or frozen meat;

19. In failing to provide adequate personnel to move racks of meat properly;

20. In failing to provide adequate assistance in the moving of racks of meat;

21. In failing to inspect the metal rack containing the hanging meat to ensure it was not hazardous; and

22. Failing to have a licensed operator driving the forklift at the time of the incident.

Plaintiff, while in the course and scope of his employment for Defendant Tyson Foods, Inc. and under the direction and/or supervision of Manuel Retana and/or Peter Bernard, employees of Defendant Tyson Foods, Inc., Plaintiff sustained injury by the careless and negligent acts of Defendants.

D. NEGLIGENCE OF DEFENDANT, ELIEZER HERNANDEZ

Defendant, Eliezer Hernandez, had a duty to exercise ordinary care and operate the forklift reasonably and prudently. Defendant breached the duty of car in the following way:

1) Failing to timely apply the brakes prior to colliding with the metal rack in question;
2) Failing to maintain a proper lookout;
3) Failing to maintain proper control of the forklift;
4) Failing to properly steer the forklift so as not to collide with the metal rack;
5) Failing to have the proper licensure to operate a forklift; and
6) For operating a forklift without proper training.

Defendant's breach of duty proximately caused injury to Plaintiff by the careless and negligent acts of the Defendant Eliezer Hernandez. Each and all of the foregoing acts and omissions, singularly or in combination, were a proximate cause of Plaintiff's injuries and damages set out in this Petition and in an amount that he would show himself entitled at the time of the trial.

E. RES IPSA LOQUITUR

Plaintiff further pleads *res ipsa loquitur* in that the facts regarding this incident are within the exclusive control of Defendants. The occurrence in question was one which, in the ordinary course of events, would not have occurred without negligence on the part of the Defendants.

F. PREMISES LIABILITY

Defendants were the owner and/or operator and were in control of and/or had the right to control of the premises on which Plaintiff's injuries occurred.

Plaintiff was an invitee at the time the injuries occurred. Plaintiff went on the premises in question for the mutual benefit of himself and Defendants and/or for a purpose connected with the business of Defendants. In the alternative, Plaintiff was a licensee at the time the injuries occurred, and Plaintiff went on the premises at the express and/or implied invitation of Defendants.

Defendants owed Plaintiff a duty to exercise care to keep the premises in a reasonably safe condition, inspect the premises to discover latent defects, and to make safe any defects or give adequate warning of any dangers. Defendants' conduct, and that of its agents, servants, and employees, acting within the course and scope of their employment, constituted negligence and a breach of the duty to exercise that degree of care that would be used by an owner or occupier under the same or similar circumstances. Defendants failed to use ordinary care to reduce or eliminate an unreasonable risk of harm created by a premises condition that Defendants knew about or in the exercise of ordinary care should have known about.

The condition of the premises posed an unreasonable risk of harm, Defendants had actual knowledge of the danger, and Defendants failed to exercise ordinary care to protect Plaintiff from danger, either by adequately warning Plaintiff or making the condition reasonably safe.

Defendants' negligence was a proximate cause of Plaintiff's injuries and damages as set out in this Petition and in an amount that she would show herself entitled at the time of the trial.

G. GROSS NEGLIGENCE/MALICE OF DEFENDANT TYSON FOODS, INC. - THEORY OF VICE PRINCIPAL AND NONDELEGABLE DUTY

Defendant Tyson Foods, Inc., is liable for exemplary damages for the gross negligence and/or malice of Defendants Manuel Retana and/or Peter Bernard through the actions and/or inactions of a vice principal. A vice principal encompasses: (a) corporate officers; (b) those who have authority to employ, direct, and discharge servants of the master; (c) those engaged in performance of nondelegable or absolute duties of the master; or (d) those to whom the master has confided the management of the whole or department or division of the business. Defendants Manuel Retana and/or Peter Bernard, Managers for Defendant Tyson Foods, Inc., committed a tort, Defendant Tyson Foods, Inc. was and is a corporation, Defendants Manuel Retana and/or Peter Bernard were the managers in charge of the Tyson Foods, Inc. in question that forms the basis of this lawsuit and Defendants Manuel Retana and/or Peter Bernard's act or omission were directly related to the defendant's business. Defendants Manuel Retana and/or Peter Bernard had the authority to hire, direct and discharge Defendant Tyson Foods, Inc.'s employees.

Defendant Tyson Foods, Inc. has a nondelegable duty to provide a reasonably safe workplace for its employees. Defendant Tyson Foods, Inc. has a nondelegable duty to provide rules and regulations for the safety of its employees and/or to warn them as to the hazards of their positions of employment. Defendant Tyson Foods, Inc. did not have any rules and/or regulations in place ensuring the safety of its employees and/or to warn them as to the hazards of their positions of employment.

Defendant Tyson Foods, Inc. has a nondelegable duty to provide a safe work environment. Defendant Tyson Foods, Inc. did not ensure that their employees working for the store in question had a safe place to work.

Defendant Tyson Foods, Inc. has a nondelegable duty to select careful and/or competent employees and Defendant Tyson Foods, Inc. employed, continued and continues to employ managers who refused to follow company policies and/or procedures that were in place or alternatively continued to employ managers who did not implement company policies and/or procedures to ensure safety in the workplace.

Defendant Tyson Foods, Inc. has a nondelegable duty to furnish reasonably safe machinery or instrumentalities with which its employees are to labor.

H. VICARIOUS LIABILITY-RESPONDEAT SUPERIOR

The acts of Defendants Manuel Retana, Peter Bernard and/or Eliezer Hernandez, employees, were performed while in the employment of defendant, Tyson Foods, Inc., and were within the course and scope of that employment and/or within the authority delegated to the Defendants Manuel Retana, Peter Bernard and/or Eliezer Hernandez in furtherance of the business of Defendant Tyson Foods, Inc.. Defendants Manuel Retana, Peter Bernard and/or Eliezer Hernandez controlled the day to day operations of the plant, had authority over Plaintiff, was responsible for the employees and/or hired personnel, among other duties.

VII.
PRE-EXISTING CONDITION

In the alternative, Plaintiff would show that if any injury and/or condition from which she currently suffers was pre-existing, then such condition was aggravated, exacerbated, and/or made worse by the negligence of the Defendants herein.

VIII.
EXEMPLARY DAMAGES

The harm and damages of Plaintiff resulted from a specific intent by Defendants to cause substantial injury to him. In the alternative, her injuries resulted from an act or omission of Defendants which, when viewed objectively from the standpoint of Defendants at the time of its occurrence, involved an extreme degree of risk, considering the probability and magnitude of the potential harm to others and of which Defendants had actual, subjective awareness of the risk involved, but nevertheless proceeded with conscious indifference to the rights, safety, or welfare of others.

The acts and omissions on the part of the Defendants, as set forth above, were more than momentary thoughtlessness, inadvertence, or error of judgment. They constituted such an entire want of care as to establish that they were the result of actual conscious indifference to the rights, welfare, or safety of the persons affected by them in the future. Such gross negligence resulted in the injuries and damages of JAIME MARTINEZ set out herein, and it is on the basis of such gross negligence that Plaintiff hereby seeks an award of exemplary damages in excess of the minimum jurisdiction limits of the court.

IX.
DAMAGES

As a proximate result of Defendants' negligence, Plaintiff suffered extensive injuries and damages. As a result of Plaintiff's injuries, Plaintiff suffered the following damages:

1. Medical expenses in the past and future;
2. Past Lost Wages;
3. Physical pain and suffering in the past and future;
4. Future Loss of Earning Capacity;
5. Mental anguish in the past and future;
6. Permanent impairment;
7. Permanent disability;
8. Cost of suit;
9. Pre-judgment and post-judgment interest;

10. Monetary relief over $1,000,000; and

11. All other relief in law and in equity to which Plaintiff may be entitled.

For these injuries, Plaintiff should be compensated in a sum in far excess of the minimal jurisdictional limits of this Honorable Court.

X.
REQUEST FOR DISCLOSURE

Pursuant to Rule 194 of the TEXAS RULES OF CIVIL PROCEDURE, all Defendants are requested to disclose, within fifty (50) days of service of this request, the information or material described in Rule 194.2 (a)-(l).

JURY TRIAL
XI.

Plaintiff demands a trial by jury.

PRAYER
XII.

WHEREFORE, PREMISES CONSIDERED, Plaintiff respectfully pray the Defendants be cited to appear and answer herein, and that upon a final trial and/or hearing of the cause, judgment be entered for the Plaintiff against the Defendants for damages in an amount within the jurisdictional limits of the Court; together with pre-judgment interest (from the date of injury through the date of judgment) at the maximum rate allowed by law; post-judgment interest at the highest legal rate allowed, costs of court; and such other and further relief to which the Plaintiff may be entitled at law or in equity.

Respectfully submitted,

LOPEZ LAW FIRM

By: ______________________

Marisol Lopez
SBN: 24050952
301 W. Avenue D
Garland, TX 75040
972-205-1110 phone
1-866-232-2077 facsimile
Marisol@lawyerforu.com
ATTORNEY FOR PLAINTIFF

STATE OF TEXAS }
COUNTY OF DALLAS }

I, FELICIA PITRE, Clerk of the District of Dallas County, Texas, do hereby certify that I have compared this instrument to be a true and correct copy of the original as appears on record in my office.

GIVEN UNDER MY HAND AND SEAL of said Court, at office in Dallas, Texas, this 13 day of July, A.D., 2015.

FELICIA PITRE, DISTRICT CLERK
DALLAS COUNTY, TEXAS

By [signature] Deputy

KEN MOLBERG
JUDGE, 95TH DISTRICT COURT
GEORGE L. ALLEN, SR. COURTS BUILDING
600 COMMERCE STREET, 6TH FLOOR
DALLAS, TEXAS 75202-4604

May 29, 2015

Via fax to:

MARISOL LOPEZ
301 W AVENUE D
GARLAND TX 75094

866-232-2077

Re: DC-15-05828-D;
JAIME MARTINEZ. vs.
TYSON FOODS INC, et al

NOTICE OF HEARING

The above-referenced cause is set for dismissal for want of prosecution on:

July 23, 2015, at 8:30 a.m.

in the 95th District Court, Dallas County, Texas.

If you have not perfected service on all parties prior to the dismissal date **you must appear at the dismissal hearing.** During the hearing you will have the opportunity to show good cause for maintaining the case on the docket. **At the dismissal hearing the court shall dismiss for want of prosecution unless there is a showing of good cause.**

If you have perfected service and no answer has been timely filed, you must have moved for or have proved up a default judgment on or prior to the above date. Failure to do so prior to the dismissal hearing will result in the dismissal of the case on the above date, time and place. **Failure to appear at this hearing shall result in dismissal of this case for want of prosecution.**

Please contact the 95th District Court Administrator, Karin Alonzo, at (214) 653-6361, with any questions. Thank you for your cooperation with our efforts to better manage the docket of this Court.

Due to the high volume of cases set of the dismissal docket, the Court requests that you call no earlier than one week prior to the above setting to report the status of this cause.

Ken Molberg
Judge, 95th Judicial District Court

DC-15-05828
NOT
NOTICE OF HEARING / FIAT
840142

Blumberg No. 5119
EXHIBIT
C

TRANSMISSION VERIFICATION REPORT

TIME : 05/29/2015 09:11
NAME : 95TH DISTRICT COURT
FAX : 2146537991
TEL : 2146536361
SER.# : U63315D3J381680

DATE,TIME	05/29 09:10
FAX NO./NAME	918662322077
DURATION	00:00:24
PAGE(S)	01
RESULT	OK
MODE	STANDARD ECM

KEN MOLBERG
JUDGE, 95TH DISTRICT COURT
GEORGE L. ALLEN, SR. COURTS BUILDING
600 COMMERCE STREET, 6TH FLOOR
DALLAS, TEXAS 75202-4604

May 29, 2015

Via fax to:

866-232-2077

MARISOL LOPEZ
301 W AVENUE D
GARLAND TX 75094

Re: DC-15-05828-D;
JAIME MARTINEZ, vs.
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NOTICE OF HEARING

The above-referenced cause is set for dismissal for want of prosecution on:

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STATE OF TEXAS }
COUNTY OF DALLAS }

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GIVEN UNDER MY HAND AND SEAL of said Court, at office in Dallas, Texas, this 13 day of July, A.D., 2015.

FELICIA PITRE, DISTRICT CLERK
DALLAS COUNTY, TEXAS

By [signature] Deputy

FILED
DALLAS COUNTY
6/11/2015 4:35:37 PM
FELICIA PITRE
DISTRICT CLERK

4 CIT ESERVE

Angie Avina

MARISOL LOPEZ LAW FIRM

Attorney and Counselor at Law

301 W. Avenue D
Garland, Texas 75040

972-205-1110 phone
866-232-2077 fax
www.LawyerForU.com
Marisol@LawyerForU.com

June 11, 2015

Sent Via Efile
George Allen Building
Attn: District Clerk
600 Commerce St.
Dallas, TX 75202
214-653-7556

RE: Cause No: DC 15-05828; Jaime Martienz vs. Tyson Foods, Inc. et al; 95th Judicial District Court; Dallas County, Texas

Dear Clerk:

Please issue citations for this case. I have called and left messages inquiring as to why the citations had not been issued but never received a call back. It appears that ProDoc charged for citations the first time the petition was filed but not the second time. For that reason I am paying or repaying for the citations now.

I would appreciate it very much if you could expedite the citations as the case is already on the DWOP docket. Thank you for your kind courtesies and professionalism.

Sincerely,

Marisol Lopez
Attorney at Law

EXHIBIT
D

Blumberg No. 5119

STATE OF TEXAS }
COUNTY OF DALLAS }

I, FELICIA PITRE, Clerk of the District of Dallas County, Texas, do hereby certify that I have compared this instrument to be a true and correct copy of the original as appears on record in my office.

GIVEN UNDER MY HAND AND SEAL of said Court, at office in Dallas, Texas, this 13 day of July A.D., 2015.

FELICIA PITRE, DISTRICT CLERK
DALLAS COUNTY, TEXAS

By ____________________ Deputy

FORM NO. 353-3 - CITATION
THE STATE OF TEXAS

To:
TYSON FOODS INC
6350 BROWNING COURT
NORTH RICHLAND HILLS TX 76180

GREETINGS:
You have been sued. You may employ an attorney. If you or your attorney do not file a written answer with the clerk who issued this citation by 10 o'clock a.m. of the Monday next following the expiration of twenty days after you were served this citation and petition, a default judgment may be taken against you. Your answer should be addressed to the clerk of the **95th District Court** at 600 Commerce Street, Ste. 101, Dallas, Texas 75202.

Said Plaintiff being **JAIME ANDRES MARTINEZ**

Filed in said Court **18th day of May, 2015** against

TYSON FOODS INC, ELIEZER HERNANDEZ, MANUEL RETANA, AND PETER BERNARD

For Suit, said suit being numbered **DC-15-05828,** the nature of which demand is as follows:
Suit on **OTHER (CIVIL)** etc. as shown on said petition **REQ FOR DISCLOSURE,**
a copy of which accompanies this citation. If this citation is not served, it shall be returned unexecuted.

WITNESS: FELICIA PITRE, Clerk of the District Courts of Dallas, County Texas.
Given under my hand and the Seal of said Court at office this 16th day of June, 2015.

ATTEST: FELICIA PITRE, Clerk of the District Courts of Dallas, County, Texas

By /s/ Carmen Moorer, Deputy
ALTHA MILES

DISTRICT COURT OF DALLAS COUNTY, TEXAS

Blumberg No. 5119
EXHIBIT
E

ESERVE

CITATION

DC-15-05828

JAIME ANDRES MARTINEZ
vs.
TYSON FOODS INC, et al

ISSUED THIS
16th day of June, 2015

FELICIA PITRE
Clerk District Courts,
Dallas County, Texas

By: ALTHA MILES, Deputy

Attorney for Plaintiff
MARISOL LOPEZ
MARISOL@LAWYERFORU.COM
301 W AVENUE D
GARLAND TX 75094
972-205-1110

DALLAS COUNTY
SERVICE FEES
NOT PAID

OFFICER'S RETURN

Case No. : DC-15-05828

Court No.95th District Court

Style: JAIME ANDRES MARTINEZ

vs.

TYSON FOODS INC, et al

Came to hand on the ______________day of ________________, 20________, at _________o'clock________.M. Executed at ___________________________, within the County of ______________________ at __________ o'clock ______ .M. on the ______________day of_____________________________________, 20_____________, by delivering to the within named

____

____

each, in person, a true copy of this Citation together with the accompanying copy of this pleading, having first endorsed on same date of delivery. The distance actually traveled by me in serving such process was ________miles and my fees are as follows: To certify which witness my hand.

For serving Citation	$_________	_____________________________________
For mileage	$_________	of_______________County, _________________
For Notary	$_________	By_________________________________Deputy

(Must be verified if served outside the State of Texas.)

Signed and sworn to by the said_______________________before me this_______day of ___________________, 20_______, to certify which witness my hand and seal of office.

____

Notary Public_________________County_______________

STATE OF TEXAS
COUNTY OF DALLAS }

I, FELICIA PITRE, Clerk of the District of Dallas County, Texas, do hereby certify that I have compared this instrument to be a true and correct copy of the original as appears on record in my office.

GIVEN UNDER MY HAND AND SEAL of said Court, at office in Dallas, Texas, this 15th day of July A.D. 2015

FELICIA PITRE, DISTRICT CLERK
DALLAS COUNTY, TEXAS

By ________ Deputy

FORM NO. 353-3 - CITATION
THE STATE OF TEXAS

To:
PETER BERNARD
720 COURSON DR
DESOTO TX 75115

GREETINGS:
You have been sued. You may employ an attorney. If you or your attorney do not file a written answer with the clerk who issued this citation by 10 o'clock a.m. of the Monday next following the expiration of twenty days after you were served this citation and petition, a default judgment may be taken against you. Your answer should be addressed to the clerk of the **95th District Court** at 600 Commerce Street, Ste. 101, Dallas, Texas 75202.

Said Plaintiff being **JAIME ANDRES MARTINEZ**

Filed in said Court **18th day of May, 2015** against

TYSON FOODS INC, ELIEZER HERNANDEZ, MANUEL RETANA, AND PETER BERNARD

For Suit, said suit being numbered **DC-15-05828,** the nature of which demand is as follows:
Suit on **OTHER (CIVIL)** etc. as shown on said petition **REQ FOR DISCLOSURE,**
a copy of which accompanies this citation. If this citation is not served, it shall be returned unexecuted.

WITNESS: FELICIA PITRE, Clerk of the District Courts of Dallas, County Texas.
Given under my hand and the Seal of said Court at office this 16th day of June, 2015.

ATTEST: FELICIA PITRE, Clerk of the District Courts of Dallas, County, Texas

By /s/ Carmen Moorer, Deputy
ALTHA MILES

DISTRICT COURT OF DALLAS COUNTY, TEXAS

Blumberg No. 5119
EXHIBIT
F

ESERVE

CITATION

DC-15-05828

JAIME ANDRES MARTINEZ
vs.
TYSON FOODS INC, et al

ISSUED THIS
16th day of June, 2015

FELICIA PITRE
Clerk District Courts,
Dallas County, Texas

By: ALTHA MILES, Deputy

Attorney for Plaintiff
MARISOL LOPEZ
MARISOL@LAWYERFORU.COM
301 W AVENUE D
GARLAND TX 75094
972-205-1110

DALLAS COUNTY
SERVICE FEES
NOT PAID

OFFICER'S RETURN

Case No. : DC-15-05828

Court No.95th District Court

Style: JAIME ANDRES MARTINEZ

vs.

TYSON FOODS INC, et al

Came to hand on the ______________ day of ________________, 20________, at _________ o'clock _________.M. Executed at ____________________________,

within the County of ________________________ at ___________ o'clock _______ .M. on the _______________ day of ____,

20______________, by delivering to the within named

____

____

each, in person, a true copy of this Citation together with the accompanying copy of this pleading, having first endorsed on same date of delivery. The distance actually traveled by me in serving such process was _________ miles and my fees are as follows: To certify which witness my hand.

For serving Citation	$__________	____
For mileage	$__________	of________________County, __________________
For Notary	$__________	By____________________________________Deputy

(Must be verified if served outside the State of Texas.)

Signed and sworn to by the said________________________before me this_______day of ___________________, 20_______,

to certify which witness my hand and seal of office.

____

Notary Public_________________County________________

STATE OF TEXAS
COUNTY OF DALLAS }

I, FELICIA PITRE, Clerk of the District of Dallas County, Texas, do hereby certify that I have compared this instrument to be a true and correct copy of the original as appears on record in my office.

GIVEN UNDER MY HAND AND SEAL of said Court, at office in Dallas, Texas, this 13th day of July, A.D., 2015

FELICIA PITRE, DISTRICT CLERK
DALLAS COUNTY, TEXAS

By ____________ Deputy

FORM NO. 353-3 - CITATION
THE STATE OF TEXAS

To:
ELIEZER HERNANDEZ
2917 HALE AVE
FORT WORTH TX 76106

GREETINGS:
You have been sued. You may employ an attorney. If you or your attorney do not file a written answer with the clerk who issued this citation by 10 o'clock a.m. of the Monday next following the expiration of twenty days after you were served this citation and petition, a default judgment may be taken against you. Your answer should be addressed to the clerk of the **95th District Court** at 600 Commerce Street, Ste. 101, Dallas, Texas 75202.

Said Plaintiff being **JAIME ANDRES MARTINEZ**

Filed in said Court **18th day of May, 2015** against

TYSON FOODS INC, ELIEZER HERNANDEZ, MANUEL RETANA, AND PETER BERNARD

For Suit, said suit being numbered DC-15-05828, the nature of which demand is as follows:
Suit on **OTHER (CIVIL)** etc. as shown on said petition **REQ FOR DISCLOSURE**, a copy of which accompanies this citation. If this citation is not served, it shall be returned unexecuted.

WITNESS: FELICIA PITRE, Clerk of the District Courts of Dallas, County Texas.
Given under my hand and the Seal of said Court at office this 16th day of June, 2015.

ATTEST: FELICIA PITRE, Clerk of the District Courts of Dallas, County, Texas

/s/ Carmen Moorer
By________________________, Deputy
ALTHA MILES

DISTRICT COURT OF DALLAS COUNTY, TEXAS

ESERVE

CITATION

DC-15-05828

JAIME ANDRES MARTINEZ
vs.
TYSON FOODS INC, et al

ISSUED THIS
16th day of June, 2015

FELICIA PITRE
Clerk District Courts,
Dallas County, Texas

By: ALTHA MILES, Deputy

Attorney for Plaintiff
MARISOL LOPEZ
MARISOL@LAWYERFORU.COM
301 W AVENUE D
GARLAND TX 75094
972-205-1110

DALLAS COUNTY SERVICE FEES NOT PAID

Blumberg No. 5119
EXHIBIT
6

OFFICER'S RETURN

Case No. : DC-15-05828

Court No.95th District Court

Style: JAIME ANDRES MARTINEZ

vs.

TYSON FOODS INC, et al

Came to hand on the ______________day of __________________, 20_________, at __________o'clock_________.M. Executed at _____________________________, within the County of _________________________ at ____________ o'clock _______ .M. on the _______________day of_____________________________________, 20______________, by delivering to the within named

____

____

each, in person, a true copy of this Citation together with the accompanying copy of this pleading, having first endorsed on same date of delivery. The distance actually traveled by me in serving such process was _________miles and my fees are as follows: To certify which witness my hand.

For serving Citation	$__________	______________________________________
For mileage	$__________	of_________________County, ________________
For Notary	$__________	By_________________________________Deputy

(Must be verified if served outside the State of Texas.)

Signed and sworn to by the said_________________________before me this_______day of ___________________, 20_______, to certify which witness my hand and seal of office.

____

Notary Public__________________County________________

STATE OF TEXAS }
COUNTY OF DALLAS }

I, FELICIA PITRE, Clerk of the District of Dallas County, Texas, do hereby certify that I have compared this instrument to be a true and correct copy of the original as appears on record in my office.

GIVEN UNDER MY HAND AND SEAL of said Court, at office In Dallas, Texas, this 13 day of July, A.D., 2015.

FELICIA PITRE, DISTRICT CLERK
DALLAS COUNTY, TEXAS

By ____________ Deputy

FORM NO. 353-3 - CITATION
THE STATE OF TEXAS

To:

MANUEL RETANA
5107 DANA DR
HALTOM CITY TX 76117

GREETINGS:
You have been sued. You may employ an attorney. If you or your attorney do not file a written answer with the clerk who issued this citation by 10 o'clock a.m. of the Monday next following the expiration of twenty days after you were served this citation and petition, a default judgment may be taken against you. Your answer should be addressed to the clerk of the **95th District Court** at 600 Commerce Street, Ste. 101, Dallas, Texas 75202.

Said Plaintiff being **JAIME ANDRES MARTINEZ**

Filed in said Court **18th day of May, 2015** against

TYSON FOODS INC, ELIEZER HERNANDEZ, MANUEL RETANA, AND PETER BERNARD

For Suit, said suit being numbered **DC-15-05828,** the nature of which demand is as follows:
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a copy of which accompanies this citation. If this citation is not served, it shall be returned unexecuted.

WITNESS: FELICIA PITRE, Clerk of the District Courts of Dallas, County Texas.
Given under my hand and the Seal of said Court at office this 16th day of June, 2015.

ATTEST: FELICIA PITRE, Clerk of the District Courts of Dallas, County, Texas

By /s/ Carmen Moorer, Deputy
ALTHA MILES

DISTRICT COURT OF DALLAS COUNTY, TEXAS

Blumberg No. 5119
EXHIBIT
H

ESERVE

CITATION

DC-15-05828

JAIME ANDRES MARTINEZ
vs.
TYSON FOODS INC, et al

ISSUED THIS
16th day of June, 2015

FELICIA PITRE
Clerk District Courts,
Dallas County, Texas

By: ALTHA MILES, Deputy

Attorney for Plaintiff
MARISOL LOPEZ
MARISOL@LAWYERFORU.COM
301 W AVENUE D
GARLAND TX 75094
972-205-1110

DALLAS COUNTY
SERVICE FEES
NOT PAID

OFFICER'S RETURN

Case No. : DC-15-05828

Court No.95th District Court

Style: JAIME ANDRES MARTINEZ

vs.

TYSON FOODS INC, et al

Came to hand on the ______________day of _________________, 20________, at _________o'clock_________.M. Executed at ____________________________, within the County of _______________________ at ___________ o'clock _______ .M. on the _______________day of____, 20______________, by delivering to the within named

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For serving Citation	$_________	_______________________________________
For mileage	$_________	of________________County, __________________
For Notary	$_________	By__________________________________Deputy

(Must be verified if served outside the State of Texas.)

Signed and sworn to by the said_______________________before me this______day of ___________________, 20_______, to certify which witness my hand and seal of office.

____

Notary Public__________________County________________

STATE OF TEXAS }
COUNTY OF DALLAS }

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GIVEN UNDER MY HAND AND SEAL of said Court, at office in Dallas, Texas, this 13th day of July, A.D., 2015.

FELICIA PITRE, DISTRICT CLERK
DALLAS COUNTY, TEXAS

By [signature] Deputy

CASE NO. DC-15-05828
JAIME MARTINEZ VS. TYSON FOODS INC, ET AL

Selected Event	Image	Page Count
07/10/2015 ORIGINAL ANSWER - GENERAL DENIAL	Martinez (Jaime) - Defendants' Original Answer.pdf	2

Other Events on This Case	Image	Page Count
05/18/2015 ORIGINAL PETITION	Information Sheet.pdf	1
	Plaintiff's Original Petition & RFD.pdf	16
05/29/2015 NOTICE OF HEARING / FIAT	NOTICE OF HEARING / FIAT	2
06/11/2015 REQUEST FOR SERVICE	Letter to File Clerk.pdf	1
06/16/2015 CITATION ISSUED	DC15-5828.pdf	2
	DC15-5828 (1).pdf	2
	DC15-5828 (2).pdf	2
	DC15-5828 (3).pdf	2

Other Images on This Case	Image	Page Count
06/24/2015 RETURN	RETANA, MANUEL - CITATION	2
06/24/2015 RETURN	HERNANDEZ, ELIEZER - CITATION	2
06/24/2015 RETURN	TYSON FOODS INC - CITATION	2
06/24/2015 RETURN	BERNARD, PETER - CITATION	2

$38[00]

58140. 115

EXHIBIT
Blumberg No. 5119
Docket

CIVIL CASE INFORMATION SHEET

CAUSE NUMBER *(FOR CLERK USE ONLY)*: ______________ COURT *(FOR CLERK USE ONLY)*: ______________

STYLED Jaime Andres Martinez vs. Tyson Foods, Inc, Eliezer Hernandez, Manuel Retana and Peter Bernard

(e.g., John Smith v. All American Insurance Co; In re Mary Ann Jones; In the Matter of the Estate of George Jackson)

A civil case information sheet must be completed and submitted when an original petition or application is filed to initiate a new civil, family law, probate, or mental health case or when a post-judgment petition for modification or motion for enforcement is filed in a family law case. The information should be the best available at the time of filing.

1. Contact information for person completing case information sheet:

- Name: Marisol Lopez
- Email: marisol at lawyerforu.com
- Address: 301 W. Avenue D
- Telephone: 972-205-1110
- City/State/Zip: Garland, TX 75040
- Fax: 1-866-232-2077
- Signature: [signature]
- State Bar No: 24050952

Names of parties in case:

Plaintiff(s)/Petitioner(s): Jaime Andres Martinez

Defendant(s)/Respondent(s): Tyson Foods, Inc.; Eliezer Hernandez; Manuel Retana; Peter Bernard

[Attach additional page as necessary to list all parties]

Person or entity completing sheet is:

- [x] Attorney for Plaintiff/Petitioner
- [ ] *Pro Se* Plaintiff/Petitioner
- [ ] Title IV-D Agency
- [ ] Other: ______

Additional Parties in Child Support Case:

- Custodial Parent: ______
- Non-Custodial Parent: ______
- Presumed Father: ______

2. Indicate case type, or identify the most important issue in the case *(select only 1)*:

Civil

Contract

Debt/Contract
- [ ] Consumer/DTPA
- [ ] Debt/Contract
- [ ] Fraud/Misrepresentation
- [ ] Other Debt/Contract: ______

Foreclosure
- [ ] Home Equity—Expedited
- [ ] Other Foreclosure
- [ ] Franchise
- [ ] Insurance
- [ ] Landlord/Tenant
- [ ] Non-Competition
- [ ] Partnership
- [ ] Other Contract: ______

Injury or Damage
- [ ] Assault/Battery
- [ ] Construction
- [ ] Defamation

Malpractice
- [ ] Accounting
- [ ] Legal
- [ ] Medical
- [ ] Other Professional Liability: ______
- [ ] Motor Vehicle Accident
- [x] Premises

Product Liability
- [ ] Asbestos/Silica
- [ ] Other Product Liability List Product: ______
- [x] Other Injury or Damage: Nonsubscriber

Real Property
- [ ] Eminent Domain/ Condemnation
- [ ] Partition
- [ ] Quiet Title
- [ ] Trespass to Try Title
- [ ] Other Property: ______

Related to Criminal Matters
- [ ] Expunction
- [ ] Judgment Nisi
- [ ] Non-Disclosure
- [ ] Seizure/Forfeiture
- [ ] Writ of Habeas Corpus—Pre-indictment
- [ ] Other: ______

Employment
- [ ] Discrimination
- [ ] Retaliation
- [ ] Termination
- [ ] Workers' Compensation
- [ ] Other Employment: ______

Other Civil
- [ ] Administrative Appeal
- [ ] Antitrust/Unfair Competition
- [ ] Code Violations
- [ ] Foreign Judgment
- [ ] Intellectual Property
- [ ] Lawyer Discipline
- [ ] Perpetuate Testimony
- [ ] Securities/Stock
- [ ] Tortious Interference
- [ ] Other: ______

Family Law

Marriage Relationship
- [ ] Annulment
- [ ] Declare Marriage Void

Divorce
- [ ] With Children
- [ ] No Children

Post-judgment Actions (non-Title IV-D)
- [ ] Enforcement
- [ ] Modification—Custody
- [ ] Modification—Other

Title IV-D
- [ ] Enforcement/Modification
- [ ] Paternity
- [ ] Reciprocals (UIFSA)
- [ ] Support Order

Other Family Law
- [ ] Enforce Foreign Judgment
- [ ] Habeas Corpus
- [ ] Name Change
- [ ] Protective Order
- [ ] Removal of Disabilities of Minority
- [ ] Other: ______

Parent-Child Relationship
- [ ] Adoption/Adoption with Termination
- [ ] Child Protection
- [ ] Child Support
- [ ] Custody or Visitation
- [ ] Gestational Parenting
- [ ] Grandparent Access
- [ ] Parentage/Paternity
- [ ] Termination of Parental Rights
- [ ] Other Parent-Child: ______

Tax
- [ ] Tax Appraisal
- [ ] Tax Delinquency
- [ ] Other Tax

Probate & Mental Health

Probate/Wills/Intestate Administration
- [ ] Dependent Administration
- [ ] Independent Administration
- [ ] Other Estate Proceedings
- [ ] Guardianship—Adult
- [ ] Guardianship—Minor
- [ ] Mental Health
- [ ] Other: ______

3. Indicate procedure or remedy, if applicable *(may select more than 1)*:

- [ ] Appeal from Municipal or Justice Court
- [ ] Arbitration-related
- [ ] Attachment
- [ ] Bill of Review
- [ ] Certiorari
- [ ] Class Action
- [ ] Declaratory Judgment
- [ ] Garnishment
- [ ] Interpleader
- [ ] License
- [ ] Mandamus
- [ ] Post-judgment
- [ ] Prejudgment Remedy
- [ ] Protective Order
- [ ] Receiver
- [ ] Sequestration
- [ ] Temporary Restraining Order/Injunction
- [ ] Turnover

4. Indicate damages sought *(do not select if it is a family law case)*:

- [ ] Less than $100,000, including damages of any kind, penalties, costs, expenses, pre-judgment interest, and attorney fees
- [ ] Less than $100,000 and non-monetary relief
- [ ] Over $100, 000 but not more than $200,000
- [ ] Over $200,000 but not more than $1,000,000
- [x] Over $1,000,000

Blumberg No. 5119 EXHIBIT A

STATE OF TEXAS
COUNTY OF DALLAS

I, FELICIA PITRE, Clerk of the District of Dallas County, Texas, do hereby certify that I have compared this instrument to be a true and correct copy of the original as appears on record in my office.

GIVEN UNDER MY HAND AND SEAL of said Court, at office in Dallas, Texas, this 13 day of July, A.D., 2015.

FELICIA PITRE, DISTRICT CLERK
DALLAS COUNTY, TEXAS

By ______ Deputy

FILED
DALLAS COUNTY
5/18/2015 2:36:43 AM
FELICIA PITRE
DISTRICT CLERK

DC-15-05828

Freeney Anita

CAUSE NO. __________

JAIME ANDRES MARTINEZ, PLAINITFF,	§ § §	IN THE DISTRICT COURT
VS.	§ §	D-95TH JUDICIAL DISTRICT
TYSON FOODS, INC., ELIEZER HERNANDEZ, MANUEL RETANA, AND PETER BERNARD, DEFENDANTS.	§ § § §	DALLAS COUNTY, TEXAS

PLAINTIFF'S ORIGINAL PETITION AND REQUESTS FOR DISCLOSURES

COMES NOW, Plaintiff, JAIME ANDRES MARTINEZ, and complains of TYSON FOODS, INC. (hereinafter referred to as "Tyson") AND ELIEZER HERNANDEZ, MANUEL RETANA, PETER BERNARD AND ELEAZAR HERNANDEZ, DEFENDANTS, hereinafter referred to by name or as Defendants, and for cause of action would respectively show the following:

I.
DISCOVERY

Discovery in this cause of action is intended to be conducted under Level 2 of Rule 190.3 of the Texas Rules of Civil Procedure.

II.
PARTIES

Plaintiff, JAIME ANDRES MARTINEZ, is an individual residing in Haltom City, Texas, Tarrant, County.

Defendant, TYSON FOODS, INC., is a foreign corporation organized under the laws of the state of Delaware and doing business in Dallas County, Texas and Tarrant County, Texas. Defendant may be served with process by delivering citation and attached petition to its

EXHIBIT
B
Blumberg No. 5119

registered agent for service on file with the Texas Secretary of State: CT Corporation System, 1999 Bryan St., Ste 900, Dallas, Texas 75201-3136.

Defendant, ELIEZER HERNANDEZ is an individual residing in Fort Worth, Texas, Tarrant County, and may be served with process by delivering citation and attached petition to 2917 Hale Ave., Fort Worth, Texas 76106 or at his place of employment at Tyson Foods, Inc. at 6350 Browning Court, North Richland Hills, TX 76180, or any other place he may be found.

Defendant, MANUEL RETANA is an individual residing in Haltom City, Texas, Tarrant County, and may be served with process by delivering citation and attached petition to 5107 Dana Dr., Haltom City, Texas 76117 or at his place of employment at Tyson Foods, Inc. at 6350 Browning Court, North Richland Hills, TX 76180, or any other place he may be found.

Defendant, PETER BERNARD is an individual residing in Desoto, Texas, Dallas County, and may be served with process by delivering citation and attached petition to 720 Courson Dr., Desoto, Texas 75115 or at his place of employment at Tyson Foods, Inc. at 6350 Browning Court, North Richland Hills, TX 76180, or any other place he may be found.

To the extent the above-named Defendants are conducting business pursuant to a tradename or assumed name, then suit is brought against them pursuant to the terms of RULE 28, TEXAS RULES OF CIVIL PROCEDURE, and the Plaintiff hereby demands that upon answering this suit, that they answer in their correct legal name and assumed name.

III.
VENUE/JURISDICTION

Jurisdiction is proper because the amount in controversy exceeds the minimum jurisdictional limits of this Honorable Court.

Venue is proper in Dallas County pursuant to §15.002(a)(2) of the Tex. Civ. Prac. & Rem. C. because Defendant PETER BERNARD is an individual residing at 720 Courson Dr., Desoto, Texas 75115, Dallas County. Proper venue against Defendant PETER BERNARD is established giving the Court venue over all Defendants in all claims or actions arising out of the same transaction or occurrence pursuant to Tex. Civ. Prac. & Rem. C. §15.005.

IV. FACTS

On or about June 24, 2013, Plaintiff Jamie Andres Martinez, was present on Defendant Tyson Foods, Inc.'s property located at 6350 Browning Court, North Richland Hills, TX 76180. Plaintiff was an employee of Defendants and performing his work duties at the time of the incident. Defendant Manuel Retana, the Plaintiff's direct manager and employee of Tyson Foods, Inc., was responsible for overseeing the production process and the safety therein of Plaintiff and their employees. Plaintiff was working preparing the food under the direct supervision of Defendant Manuel Retana when Defendant Eliezer Hernandez ran the forklift he was operating into a metal rack while attempting to load metal bars containing large pieces of meat onto said forklift. Defendant Manuel Retana collided the forklift with the metal rack causing a heavy metal bar weighing approximately one hundred pounds to fall on Plaintiff's head causing a head injury among other injuries.

Defendant Peter Bernard, employee of Tyson Foods, Inc., is employed as the plant's safety manager and is responsible for overseeing all safety procedures put in place at the plant. Following the incident, Defendant Peter Bernard had the metal bar that fell on Plaintiff's head to be soldered to prevent any further injuries should the same occurrence arise in the future.

Defendant Peter Bernard and Defendant Manuel Retana knew or should have known that it was foreseeable that should an employee collide with the rack as they are loading heavy meat onto a forklift that loose metal bars will easily fall on the employees that are working in the same area. Defendant Peter Bernard threatened Plaintiff that should he not sign a release of claim he would be terminated. Plaintiff did not sign a release of claim and instead sought medical care on his own. Once the company received notification from a private doctor the company allowed Plaintiff to work again.

V.
DEFENDANT'S STATUS REGARDING BURDEN OF PROOF

Defendant TYSON FOOD, INC. did not have workers' compensation insurance coverage at the time of the incident made the basis of this lawsuit, therefore, pursuant to TEXAS LABOR CODE § 406.033, it is not a defense that:

1. The employee was guilty of contributory negligence;
2. The employee assumed the risk of injury; or
3. The injury was caused by the negligence of a fellow employee.

A cause of action may not be waived by an employee before the employee's injury. Any agreements by an employee to waive a cause of action or any right described above before the employee's injury is void and unenforceable.

VI.
CAUSES OF ACTION

A. NEGLIGENCE OF DEFENDANT, TYSON FOODS, INC.

Defendant Tyson Food's conduct, and that of its agents, servants, and employees, acting within the course and scope of their employment, constituted negligence and a breach of the duty to exercise that degree of care that would be used by an ordinary entity under the same or similar circumstances in the following respects:

1. In failing to maintain the premises in a reasonably safe condition;
2. In failing to provide a reasonably safe workplace for Plaintiff;
3. In allowing Plaintiff to work in unreasonably unsafe conditions;
4. Defendant's actions compelled Plaintiff to keep working under unsafe conditions;
5. Negligently not securing the metal bars that held a metal rack together that was holding heavy meat;
6. In failing to properly inspect and maintain the work area in question to discover the unsafe condition;
7. In failing to provide, follow and enforce rules, regulations and/or safety instructions for the safety of its employees;
8. In failing to ensure Defendant Eliezer Hernandez had proper training and/or licensure under OSHA to operate the forklift at the time of the incident;
9. In failing to ensure that Plaintiff was employed in a manner that was not detrimental to his health;
10. In failing to adequately monitor and/or supervise work performed in order to make sure work was performed in safe manner and workers were not being exposed to dangerous, unsafe conditions and/or practices;
11. In failing to promulgate, implement, enforce, and/or ensure compliance with adequate safety procedures, policies, and practices;
12. In rushing and pushing workers on a fast paced schedule;
13. In failing to take all reasonable precautions for the safety of all workers;

14. In failing to eliminate unsafe methods and operations;

15. In failing to provide training to Plaintiff and/or his co-workers;

16. In failing to hold safety meetings and/or posting safety rules;

17. In failing to provide the proper equipment for which to do the work;

18. In failing to provide adequate equipment to move and/or store materials and/or frozen heavy meat;

19. In failing to provide adequate assistance in the moving of frozen heavy meat

20. In failing to adequately train Defendant Peter Bernard and Defendant Manuel Retana in maintiaing a safe work place;

21. In failing to adequately train Defendant Eliezer Hernandez in the operation of a forklift; and

22. In failing to have a licensed operator operating the forklift at the time of the incident.

Plaintiff, while in the course and scope of his employment for Defendants, and under the direction and supervision of other employees, sustained injury by the careless and negligent acts of the Defendant and/or its employees. Each and all of the foregoing acts and omissions, singularly or in combination, were a proximate cause of Plaintiff's injuries and damages set out in this Petition and in an amount that she would show himself entitled at the time of the trial.

B. GROSS NEGLIGENCE OF DEFENDANT, TYSON FOODS, INC.

Defendant's acts and/or omissions as described above demonstrated such entire want of care that said acts and/or omissions were the result of actual conscious indifference to the rights, safety, and/or welfare of Plaintiff Jaimes Martinez. Such acts and/or omissions, singularly or in combination, were a direct and proximate cause of Plaintiff's injuries and damages.

Furthermore, Plaintiff would show to the Court that the condition of the work area on which

Plaintiff was working had continued for such period of time that, had Defendant exercised ordinary care in the maintenance of the work area, it would have been noticed and corrected by Defendant. In fact, Defendant had knowledge that the metal bar was not soldered and therefore may fall on an employee, but yet negligently continued to allow this unsafe conduct to continue within the area of work without any safeguards. The conditions just described above posed an unreasonable risk of harm to Plaintiff and others in that there was such a probability of a harmful event occurring that a reasonably prudent person would have foreseen that the event did occur or a similar event was likely to happen again. That is, Defendant did not exercise reasonable care to reduce or eliminate the risk even after having knowledge of said unsafe practices. The negligent, careless, or reckless acts or omissions of Defendant consisted of one or more of the following:

1. Failure to properly inspect and maintain the work area in question to discover the unsafe condition;
2. Failure to give adequate and understandable warnings to Plaintiff of the unsafe condition of the working area;
3. Negligent placement of loose metal bar;
4. Failing to eliminate unsafe conditions after having actual, subjective awareness of the risk of said unsafe condition posed to employees and/or Plaintiff;
5. Failure to provide necessary and proper procedures;
6. Failing to eliminate unsafe conditions when viewed objectively from Defendant Tyson Food's standpoint, said unsafe condition at the time Plaintiff was injured, involved an extreme degree of risk, considering the probability and magnitude of the potential harm to others;
7. Negligently rushed and pushed employees on a fast paced schedule without regard to said unsafe conditions; and
8. Failing to have a licensed operator driving the forklift at the time of the incident.

Plaintiff, while in the course and scope of his employment for Defendants, and under the direction and supervision of other employees, sustained injury by the careless and negligent acts of the Defendant and/or its employees. Each and all of the foregoing acts and omissions, singularly or in combination, were a proximate cause of Plaintiff's injuries and damages set out in this Petition and in an amount that she would show himself entitled at the time of the trial.

C. NEGLIGENCE OF DEFENDANTS, MANUEL RETANA AND PETER BERNARD

Plaintiff would show the Court that the negligent acts and omissions of Defendants, Manuel Retana and Peter Bernard, as set out herein, separately and collectively, were a direct and proximate cause of the incident in question and the resulting injuries and damages sustained by Plaintiff. Said acts and omissions by Defendants are, including, but not limited to the following:

1. In failing to maintain the premises in a reasonably safe condition;
2. In failing to provide a reasonably safe workplace for Plaintiff;
3. In allowing Plaintiff to work in unreasonably unsafe conditions;
4. Defendants' actions compelled Plaintiff to keep working under unsafe conditions;
5. Negligently allowing a heavy metal bar sitting on a metal rack to be loose so that should movement occur said bar could and/or would collapse on top of Plaintiff thereby creating unsafe conditions;
6. In failing to warn Plaintiff that the metal bar was loose thereby unsafe and/or would require extra care;
7. In failing to properly inspect and maintain the work area in question to discover the unsafe condition;
8. In failing to provide, follow and enforce rules, regulations and/or safety instructions for the safety of its employees;

9. In failing to ensure that Plaintiff was employed in a manner that was not detrimental to his health;

10. In failing to adequately monitor and/or supervise work performed in order to make sure work was performed in safe manner and workers were not being exposed to dangerous, unsafe conditions and/or practices;

11. In failing to promulgate, implement, enforce, and/or ensure compliance with adequate safety procedures, policies, and practices;

12. In rushing and pushing workers on a fast paced schedule;

13. In failing to take all reasonable precautions for the safety of all workers;

14. In failing to eliminate unsafe methods and operations;

15. In failing to provide training to Plaintiff and/or his co-workers;

16. In failing to hold safety meetings and/or posting safety rules;

17. In failing to provide the proper equipment for which to do the work;

18. In failing to provide adequate equipment to move and/or store materials and/or frozen meat;

19. In failing to provide adequate personnel to move racks of meat properly;

20. In failing to provide adequate assistance in the moving of racks of meat;

21. In failing to inspect the metal rack containing the hanging meat to ensure it was not hazardous; and

22. Failing to have a licensed operator driving the forklift at the time of the incident.

Plaintiff, while in the course and scope of his employment for Defendant Tyson Foods, Inc. and under the direction and/or supervision of Manuel Retana and/or Peter Bernard, employees of Defendant Tyson Foods, Inc., Plaintiff sustained injury by the careless and negligent acts of Defendants.

D. NEGLIGENCE OF DEFENDANT, ELIEZER HERNANDEZ

Defendant, Eliezer Hernandez, had a duty to exercise ordinary care and operate the forklift reasonably and prudently. Defendant breached the duty of car in the following way:

1) Failing to timely apply the brakes prior to colliding with the metal rack in question;
2) Failing to maintain a proper lookout;
3) Failing to maintain proper control of the forklift;
4) Failing to properly steer the forklift so as not to collide with the metal rack;
5) Failing to have the proper licensure to operate a forklift; and
6) For operating a forklift without proper training.

Defendant's breach of duty proximately caused injury to Plaintiff by the careless and negligent acts of the Defendant Eliezer Hernandez. Each and all of the foregoing acts and omissions, singularly or in combination, were a proximate cause of Plaintiff's injuries and damages set out in this Petition and in an amount that he would show himself entitled at the time of the trial.

E. RES IPSA LOQUITUR

Plaintiff further pleads *res ipsa loquitur* in that the facts regarding this incident are within the exclusive control of Defendants. The occurrence in question was one which, in the ordinary course of events, would not have occurred without negligence on the part of the Defendants.

F. PREMISES LIABILITY

Defendants were the owner and/or operator and were in control of and/or had the right to control of the premises on which Plaintiff's injuries occurred.

Plaintiff was an invitee at the time the injuries occurred. Plaintiff went on the premises in question for the mutual benefit of himself and Defendants and/or for a purpose connected with the business of Defendants. In the alternative, Plaintiff was a licensee at the time the injuries occurred, and Plaintiff went on the premises at the express and/or implied invitation of Defendants.

Defendants owed Plaintiff a duty to exercise care to keep the premises in a reasonably safe condition, inspect the premises to discover latent defects, and to make safe any defects or give adequate warning of any dangers. Defendants' conduct, and that of its agents, servants, and employees, acting within the course and scope of their employment, constituted negligence and a breach of the duty to exercise that degree of care that would be used by an owner or occupier under the same or similar circumstances. Defendants failed to use ordinary care to reduce or eliminate an unreasonable risk of harm created by a premises condition that Defendants knew about or in the exercise of ordinary care should have known about.

The condition of the premises posed an unreasonable risk of harm, Defendants had actual knowledge of the danger, and Defendants failed to exercise ordinary care to protect Plaintiff from danger, either by adequately warning Plaintiff or making the condition reasonably safe.

Defendants' negligence was a proximate cause of Plaintiff's injuries and damages as set out in this Petition and in an amount that she would show herself entitled at the time of the trial.

G. GROSS NEGLIGENCE/MALICE OF DEFENDANT TYSON FOODS, INC. - THEORY OF VICE PRINCIPAL AND NONDELEGABLE DUTY

Defendant Tyson Foods, Inc., is liable for exemplary damages for the gross negligence and/or malice of Defendants Manuel Retana and/or Peter Bernard through the actions and/or inactions of a vice principal. A vice principal encompasses: (a) corporate officers; (b) those who have authority to employ, direct, and discharge servants of the master; (c) those engaged in performance of nondelegable or absolute duties of the master; or (d) those to whom the master has confided the management of the whole or department or division of the business. Defendants Manuel Retana and/or Peter Bernard, Managers for Defendant Tyson Foods, Inc., committed a tort, Defendant Tyson Foods, Inc. was and is a corporation, Defendants Manuel Retana and/or Peter Bernard were the managers in charge of the Tyson Foods, Inc. in question that forms the basis of this lawsuit and Defendants Manuel Retana and/or Peter Bernard's act or omission were directly related to the defendant's business. Defendants Manuel Retana and/or Peter Bernard had the authority to hire, direct and discharge Defendant Tyson Foods, Inc.'s employees.

Defendant Tyson Foods, Inc. has a nondelegable duty to provide a reasonably safe workplace for its employees. Defendant Tyson Foods, Inc. has a nondelegable duty to provide rules and regulations for the safety of its employees and/or to warn them as to the hazards of their positions of employment. Defendant Tyson Foods, Inc. did not have any rules and/or regulations in place ensuring the safety of its employees and/or to warn them as to the hazards of their positions of employment.

Defendant Tyson Foods, Inc. has a nondelegable duty to provide a safe work environment. Defendant Tyson Foods, Inc. did not ensure that their employees working for the store in question had a safe place to work.

Defendant Tyson Foods, Inc. has a nondelegable duty to select careful and/or competent employees and Defendant Tyson Foods, Inc. employed, continued and continues to employ managers who refused to follow company policies and/or procedures that were in place or alternatively continued to employ managers who did not implement company policies and/or procedures to ensure safety in the workplace.

Defendant Tyson Foods, Inc. has a nondelegable duty to furnish reasonably safe machinery or instrumentalities with which its employees are to labor.

H. VICARIOUS LIABILITY-RESPONDEAT SUPERIOR

The acts of Defendants Manuel Retana, Peter Bernard and/or Eliezer Hernandez, employees, were performed while in the employment of defendant, Tyson Foods, Inc., and were within the course and scope of that employment and/or within the authority delegated to the Defendants Manuel Retana, Peter Bernard and/or Eliezer Hernandez in furtherance of the business of Defendant Tyson Foods, Inc.. Defendants Manuel Retana, Peter Bernard and/or Eliezer Hernandez controlled the day to day operations of the plant, had authority over Plaintiff, was responsible for the employees and/or hired personnel, among other duties.

VII.
PRE-EXISTING CONDITION

In the alternative, Plaintiff would show that if any injury and/or condition from which she currently suffers was pre-existing, then such condition was aggravated, exacerbated, and/or made worse by the negligence of the Defendants herein.

VIII.
EXEMPLARY DAMAGES

The harm and damages of Plaintiff resulted from a specific intent by Defendants to cause substantial injury to him. In the alternative, her injuries resulted from an act or omission of Defendants which, when viewed objectively from the standpoint of Defendants at the time of its occurrence, involved an extreme degree of risk, considering the probability and magnitude of the potential harm to others and of which Defendants had actual, subjective awareness of the risk involved, but nevertheless proceeded with conscious indifference to the rights, safety, or welfare of others.

The acts and omissions on the part of the Defendants, as set forth above, were more than momentary thoughtlessness, inadvertence, or error of judgment. They constituted such an entire want of care as to establish that they were the result of actual conscious indifference to the rights, welfare, or safety of the persons affected by them in the future. Such gross negligence resulted in the injuries and damages of JAIME MARTINEZ set out herein, and it is on the basis of such gross negligence that Plaintiff hereby seeks an award of exemplary damages in excess of the minimum jurisdiction limits of the court.

IX.
DAMAGES

As a proximate result of Defendants' negligence, Plaintiff suffered extensive injuries and damages. As a result of Plaintiff's injuries, Plaintiff suffered the following damages:

1. Medical expenses in the past and future;
2. Past Lost Wages;
3. Physical pain and suffering in the past and future;
4. Future Loss of Earning Capacity;
5. Mental anguish in the past and future;
6. Permanent impairment;
7. Permanent disability;
8. Cost of suit;
9. Pre-judgment and post-judgment interest;

10. Monetary relief over $1,000,000; and

11. All other relief in law and in equity to which Plaintiff may be entitled.

For these injuries, Plaintiff should be compensated in a sum in far excess of the minimal jurisdictional limits of this Honorable Court.

X.
REQUEST FOR DISCLOSURE

Pursuant to Rule 194 of the TEXAS RULES OF CIVIL PROCEDURE, all Defendants are requested to disclose, within fifty (50) days of service of this request, the information or material described in Rule 194.2 (a)-(l).

JURY TRIAL
XI.

Plaintiff demands a trial by jury.

PRAYER
XII.

WHEREFORE, PREMISES CONSIDERED, Plaintiff respectfully pray the Defendants be cited to appear and answer herein, and that upon a final trial and/or hearing of the cause, judgment be entered for the Plaintiff against the Defendants for damages in an amount within the jurisdictional limits of the Court; together with pre-judgment interest (from the date of injury through the date of judgment) at the maximum rate allowed by law; post-judgment interest at the highest legal rate allowed, costs of court; and such other and further relief to which the Plaintiff may be entitled at law or in equity.

Respectfully submitted,

LOPEZ LAW FIRM

By: ______________________

Marisol Lopez
SBN: 24050952
301 W. Avenue D
Garland, TX 75040
972-205-1110 phone
1-866-232-2077 facsimile
Marisol@lawyerforu.com
ATTORNEY FOR PLAINTIFF

STATE OF TEXAS }
COUNTY OF DALLAS }

I, FELICIA PITRE, Clerk of the District of Dallas County, Texas, do hereby certify that I have compared this instrument to be a true and correct copy of the original as appears on record in my office.

GIVEN UNDER MY HAND AND SEAL of said Court, at office in Dallas, Texas, this 13 day of July, A.D., 2015.

FELICIA PITRE, DISTRICT CLERK
DALLAS COUNTY, TEXAS

By [signature] Deputy

KEN MOLBERG
JUDGE, 95TH DISTRICT COURT
GEORGE L. ALLEN, SR. COURTS BUILDING
600 COMMERCE STREET, 6TH FLOOR
DALLAS, TEXAS 75202-4604

May 29, 2015

Via fax to:

MARISOL LOPEZ
301 W AVENUE D
GARLAND TX 75094

866-232-2077

Re: DC-15-05828-D;
JAIME MARTINEZ vs.
TYSON FOODS INC, et al

NOTICE OF HEARING

The above-referenced cause is set for dismissal for want of prosecution on:

July 23, 2015, at 8:30 a.m.

in the 95th District Court, Dallas County, Texas.

If you have not perfected service on all parties prior to the dismissal date **you must appear at the dismissal hearing.** During the hearing you will have the opportunity to show good cause for maintaining the case on the docket. **At the dismissal hearing the court shall dismiss for want of prosecution unless there is a showing of good cause.**

If you have perfected service and no answer has been timely filed, you must have moved for or have proved up a default judgment on or prior to the above date. Failure to do so prior to the dismissal hearing will result in the dismissal of the case on the above date, time and place. **Failure to appear at this hearing shall result in dismissal of this case for want of prosecution.**

Please contact the 95th District Court Administrator, Karin Alonzo, at (214) 653-6361, with any questions. Thank you for your cooperation with our efforts to better manage the docket of this Court.

Due to the high volume of cases set of the dismissal docket, the Court requests that you call no earlier than one week prior to the above setting to report the status of this cause.

Ken Molberg
Judge, 95th Judicial District Court

DC-15-05828
NOT
NOTICE OF HEARING / FIAT
840142

EXHIBIT
Blumberg No. 5119
C

TRANSMISSION VERIFICATION REPORT

TIME : 05/29/2015 09:11
NAME : 95TH DISTRICT COURT
FAX : 2146537991
TEL : 2146536361
SER.# : U63315D3J381680

DATE,TIME	05/29 09:10
FAX NO./NAME	918662322077
DURATION	00:00:24
PAGE(S)	01
RESULT	OK
MODE	STANDARD ECM

KEN MOLBERG
JUDGE, 95TH DISTRICT COURT
GEORGE L. ALLEN, SR. COURTS BUILDING
600 COMMERCE STREET, 6TH FLOOR
DALLAS, TEXAS 75202-4604

May 29, 2015

Via fax to:

866-232-2077

MARISOL LOPEZ
301 W AVENUE D
GARLAND TX 75094

Re: DC-15-05828-D;
JAIME MARTINEZ, vs.
TYSON FOODS INC, et al

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STATE OF TEXAS }
COUNTY OF DALLAS }

I, FELICIA PITRE, Clerk of the District of Dallas County, Texas, do hereby certify that I have compared this instrument to be a true and correct copy of the original as appears on record in my office.

GIVEN UNDER MY HAND AND SEAL of said Court, at office in Dallas, Texas, this 13 day of July, A.D., 2015.

FELICIA PITRE, DISTRICT CLERK
DALLAS COUNTY, TEXAS

By [signature] Deputy

FILED
DALLAS COUNTY
6/11/2015 4:35:37 PM
FELICIA PITRE
DISTRICT CLERK

4 CIT ESERVE

Angie Avina

MARISOL LOPEZ LAW FIRM

Attorney and Counselor at Law

301 W. Avenue D
Garland, Texas 75040

972-205-1110 phone
866-232-2077 fax
www.LawyerForU.com
Marisol@LawyerForU.com

June 11, 2015

Sent Via Efile
George Allen Building
Attn: District Clerk
600 Commerce St.
Dallas, TX 75202
214-653-7556

RE: Cause No: DC 15-05828; Jaime Martienz vs. Tyson Foods, Inc. et al; 95th Judicial District Court; Dallas County, Texas

Dear Clerk:

Please issue citations for this case. I have called and left messages inquiring as to why the citations had not been issued but never received a call back. It appears that ProDoc charged for citations the first time the petition was filed but not the second time. For that reason I am paying or repaying for the citations now.

I would appreciate it very much if you could expedite the citations as the case is already on the DWOP docket. Thank you for your kind courtesies and professionalism.

Sincerely,

Marisol Lopez
Attorney at Law

EXHIBIT
D
Blumberg No. 5119

STATE OF TEXAS }
COUNTY OF DALLAS }

I, FELICIA PITRE, Clerk of the District of Dallas County, Texas, do hereby certify that I have compared this instrument to be a true and correct copy of the original as appears on record in my office.

GIVEN UNDER MY HAND AND SEAL of said Court, at office in Dallas, Texas, this 13 day of July, A.D., 2015.

FELICIA PITRE, DISTRICT CLERK
DALLAS COUNTY, TEXAS

By ______________________ Deputy

FORM NO. 353-3 - CITATION
THE STATE OF TEXAS

To:
TYSON FOODS INC
6350 BROWNING COURT
NORTH RICHLAND HILLS TX 76180

GREETINGS:
You have been sued. You may employ an attorney. If you or your attorney do not file a written answer with the clerk who issued this citation by 10 o'clock a.m. of the Monday next following the expiration of twenty days after you were served this citation and petition, a default judgment may be taken against you. Your answer should be addressed to the clerk of the **95th District Court** at 600 Commerce Street, Ste. 101, Dallas, Texas 75202.

Said Plaintiff being **JAIME ANDRES MARTINEZ**

Filed in said Court **18th day of May, 2015** against

TYSON FOODS INC, ELIEZER HERNANDEZ, MANUEL RETANA, AND PETER BERNARD

For Suit, said suit being numbered **DC-15-05828,** the nature of which demand is as follows:
Suit on **OTHER (CIVIL)** etc. as shown on said petition **REQ FOR DISCLOSURE,**
a copy of which accompanies this citation. If this citation is not served, it shall be returned unexecuted.

WITNESS: FELICIA PITRE, Clerk of the District Courts of Dallas, County Texas.
Given under my hand and the Seal of said Court at office this 16th day of June, 2015

ATTEST: FELICIA PITRE, Clerk of the District Courts of Dallas, County, Texas

By /s/ Carmen Moorer, Deputy
ALTHA MILES

DISTRICT COURT OF DALLAS COUNTY, TEXAS

Blumberg No. 5119
EXHIBIT
E

ESERVE

CITATION

DC-15-05828

JAIME ANDRES MARTINEZ
vs.
TYSON FOODS INC, et al

ISSUED THIS
16th day of June, 2015

FELICIA PITRE
Clerk District Courts,
Dallas County, Texas

By: ALTHA MILES, Deputy

Attorney for Plaintiff
MARISOL LOPEZ
MARISOL@LAWYERFORU.COM
301 W AVENUE D
GARLAND TX 75094
972-205-1110

DALLAS COUNTY SERVICE FEES NOT PAID

OFFICER'S RETURN

Case No. : DC-15-05828

Court No.95th District Court

Style: JAIME ANDRES MARTINEZ

vs.

TYSON FOODS INC, et al

Came to hand on the ______________day of _________________, 20________, at _________o'clock________.M. Executed at ____________________________, within the County of _________________________ at ___________ o'clock _______ .M. on the _______________day of_____________________________________, 20______________, by delivering to the within named

____

____

each, in person, a true copy of this Citation together with the accompanying copy of this pleading, having first endorsed on same date of delivery. The distance actually traveled by me in serving such process was _________miles and my fees are as follows: To certify which witness my hand.

For serving Citation	$_________	______________________________________
For mileage	$_________	of_________________County, __________________
For Notary	$_________	By_____________________________________Deputy

(Must be verified if served outside the State of Texas.)

Signed and sworn to by the said________________________before me this_______day of ____________________, 20_______, to certify which witness my hand and seal of office.

____

Notary Public__________________County________________

STATE OF TEXAS
COUNTY OF DALLAS }

I, FELICIA PITRE, Clerk of the District of Dallas County, Texas, do hereby certify that I have compared this instrument to be a true and correct copy of the original as appears on record in my office.

GIVEN UNDER MY HAND AND SEAL of said Court, at office in Dallas, Texas, this 13th day of July, A.D. 2015

FELICIA PITRE, DISTRICT CLERK
DALLAS COUNTY, TEXAS
By ______________ Deputy

Blumberg No. 5119
EXHIBIT
F

FORM NO. 353-3 - CITATION
THE STATE OF TEXAS

To:

PETER BERNARD
720 COURSON DR
DESOTO TX 75115

GREETINGS:
You have been sued. You may employ an attorney. If you or your attorney do not file a written answer with the clerk who issued this citation by 10 o'clock a.m. of the Monday next following the expiration of twenty days after you were served this citation and petition, a default judgment may be taken against you. Your answer should be addressed to the clerk of the **95th District Court** at 600 Commerce Street, Ste. 101, Dallas, Texas 75202.

Said Plaintiff being **JAIME ANDRES MARTINEZ**

Filed in said Court **18th day of May, 2015** against

TYSON FOODS INC, ELIEZER HERNANDEZ, MANUEL RETANA, AND PETER BERNARD

For Suit, said suit being numbered **DC-15-05828,** the nature of which demand is as follows:
Suit on **OTHER (CIVIL)** etc. as shown on said petition **REQ FOR DISCLOSURE,**
a copy of which accompanies this citation. If this citation is not served, it shall be returned unexecuted.

WITNESS: FELICIA PITRE, Clerk of the District Courts of Dallas, County Texas.
Given under my hand and the Seal of said Court at office this 16th day of June, 2015.

ATTEST: FELICIA PITRE, Clerk of the District Courts of Dallas, County, Texas

By /s/ Carmen Moorer, Deputy
ALTHA MILES

DISTRICT COURT OF DALLAS COUNTY, TEXAS

ESERVE

CITATION

DC-15-05828

JAIME ANDRES MARTINEZ
vs.
TYSON FOODS INC, et al

ISSUED THIS
16th day of June, 2015

FELICIA PITRE
Clerk District Courts,
Dallas County, Texas

By: ALTHA MILES, Deputy

Attorney for Plaintiff
MARISOL LOPEZ
MARISOL@LAWYERFORU.COM
301 W AVENUE D
GARLAND TX 75094
972-205-1110

DALLAS COUNTY
SERVICE FEES
NOT PAID

OFFICER'S RETURN

Case No. : DC-15-05828

Court No.95th District Court

Style: JAIME ANDRES MARTINEZ

vs.

TYSON FOODS INC, et al

Came to hand on the ______________day of ________________, 20________, at ________o'clock________.M. Executed at ___________________________,

within the County of ________________________ at __________ o'clock ______ .M. on the ______________day of______________________________________,

20______________, by delivering to the within named

____

____

each, in person, a true copy of this Citation together with the accompanying copy of this pleading, having first endorsed on same date of delivery. The distance actually traveled by me in serving such process was ________miles and my fees are as follows: To certify which witness my hand.

For serving Citation	$_________	____
For mileage	$_________	of________________County, __________________
For Notary	$_________	By___________________________________Deputy

(Must be verified if served outside the State of Texas.)

Signed and sworn to by the said________________________before me this______day of __________________, 20_______,

to certify which witness my hand and seal of office.

____

Notary Public_________________County________________

STATE OF TEXAS }
COUNTY OF DALLAS }

I, FELICIA PITRE, Clerk of the District of Dallas County, Texas, do hereby certify that I have compared this instrument to be a true and correct copy of the original as appears on record in my office.

GIVEN UNDER MY HAND AND SEAL of said Court, at office in Dallas, Texas, this 17th day of July, A.D., 2015

FELICIA PITRE, DISTRICT CLERK
DALLAS COUNTY, TEXAS

By ____________________ Deputy

FORM NO. 353-3 - CITATION

THE STATE OF TEXAS

To:

ELIEZER HERNANDEZ
2917 HALE AVE
FORT WORTH TX 76106

GREETINGS:
You have been sued. You may employ an attorney. If you or your attorney do not file a written answer with the clerk who issued this citation by 10 o'clock a.m. of the Monday next following the expiration of twenty days after you were served this citation and petition, a default judgment may be taken against you. Your answer should be addressed to the clerk of the **95th District Court** at 600 Commerce Street, Ste. 101, Dallas, Texas 75202.

Said Plaintiff being **JAIME ANDRES MARTINEZ**

Filed in said Court **18th day of May, 2015** against

TYSON FOODS INC, ELIEZER HERNANDEZ, MANUEL RETANA, AND PETER BERNARD

For Suit, said suit being numbered **DC-15-05828**, the nature of which demand is as follows:
Suit on **OTHER (CIVIL)** etc. as shown on said petition **REQ FOR DISCLOSURE**,
a copy of which accompanies this citation. If this citation is not served, it shall be returned unexecuted.

WITNESS: FELICIA PITRE, Clerk of the District Courts of Dallas, County Texas.
Given under my hand and the Seal of said Court at office this 16th day of June, 2015.

ATTEST: FELICIA PITRE, Clerk of the District Courts of Dallas, County, Texas

/s/ Carmen Moorer

By______________________________, Deputy
ALTHA MILES

DISTRICT COURT OF DALLAS COUNTY, TEXAS

ESERVE

CITATION

DC-15-05828

JAIME ANDRES MARTINEZ
vs.
TYSON FOODS INC, et al

ISSUED THIS
16th day of June, 2015

FELICIA PITRE
Clerk District Courts,
Dallas County, Texas

By: ALTHA MILES, Deputy

Attorney for Plaintiff
MARISOL LOPEZ
MARISOL@LAWYERFORU.COM
301 W AVENUE D
GARLAND TX 75094
972-205-1110

DALLAS COUNTY SERVICE FEES NOT PAID

Blumberg No. 5119
EXHIBIT
G

OFFICER'S RETURN

Case No. : DC-15-05828

Court No.95th District Court

Style: JAIME ANDRES MARTINEZ

vs.

TYSON FOODS INC, et al

Came to hand on the ______________ day of ________________, 20________, at _________ o'clock ________ .M. Executed at ____________________________, within the County of ________________________ at ___________ o'clock _______ .M. on the _______________ day of ____, 20______________, by delivering to the within named

____

____

each, in person, a true copy of this Citation together with the accompanying copy of this pleading, having first endorsed on same date of delivery. The distance actually traveled by me in serving such process was ________ miles and my fees are as follows: To certify which witness my hand.

For serving Citation	$_________	______________________________________
For mileage	$_________	of________________County, __________________
For Notary	$_________	By________________________________Deputy

(Must be verified if served outside the State of Texas.)

Signed and sworn to by the said_______________________ before me this ______ day of __________________, 20_______,
to certify which witness my hand and seal of office.

____

Notary Public__________________County________________

STATE OF TEXAS }
COUNTY OF DALLAS }

I, FELICIA PITRE, Clerk of the District of Dallas County, Texas, do hereby certify that I have compared this instrument to be a true and correct copy of the original as appears on record in my office.

GIVEN UNDER MY HAND AND SEAL of said Court, at office In Dallas, Texas, this 13 day of July, A.D., 2015.

FELICIA PITRE, DISTRICT CLERK
DALLAS COUNTY, TEXAS

By ______________ Deputy

FORM NO. 353-3 - CITATION
THE STATE OF TEXAS

To:

MANUEL RETANA
5107 DANA DR
HALTOM CITY TX 76117

GREETINGS:
You have been sued. You may employ an attorney. If you or your attorney do not file a written answer with the clerk who issued this citation by 10 o'clock a.m. of the Monday next following the expiration of twenty days after you were served this citation and petition, a default judgment may be taken against you. Your answer should be addressed to the clerk of the **95th District Court** at 600 Commerce Street, Ste. 101, Dallas, Texas 75202.

Said Plaintiff being **JAIME ANDRES MARTINEZ**

Filed in said Court **18th day of May, 2015** against

TYSON FOODS INC, ELIEZER HERNANDEZ, MANUEL RETANA, AND PETER BERNARD

For Suit, said suit being numbered **DC-15-05828,** the nature of which demand is as follows: Suit on **OTHER (CIVIL)** etc. as shown on said petition **REQ FOR DISCLOSURE,** a copy of which accompanies this citation. If this citation is not served, it shall be returned unexecuted.

WITNESS: FELICIA PITRE, Clerk of the District Courts of Dallas, County Texas.
Given under my hand and the Seal of said Court at office this 16th day of June, 2015.

ATTEST: FELICIA PITRE, Clerk of the District Courts of Dallas, County, Texas

By /s/ Carmen Moorer, Deputy
ALTHA MILES

DISTRICT COURT OF DALLAS COUNTY, TEXAS

Blumberg No. 5119
EXHIBIT
H

ESERVE

CITATION

DC-15-05828

JAIME ANDRES MARTINEZ
vs.
TYSON FOODS INC, et al

ISSUED THIS
16th day of June, 2015

FELICIA PITRE
Clerk District Courts,
Dallas County, Texas

By: ALTHA MILES, Deputy

Attorney for Plaintiff
MARISOL LOPEZ
MARISOL@LAWYERFORU.COM
301 W AVENUE D
GARLAND TX 75094
972-205-1110

DALLAS COUNTY SERVICE FEES NOT PAID

OFFICER'S RETURN

Case No. : DC-15-05828

Court No.95th District Court

Style: JAIME ANDRES MARTINEZ

vs.

TYSON FOODS INC, et al

Came to hand on the ______________day of ________________, 20________, at _________o'clock________.M. Executed at ___________________________,

within the County of ________________________ at ___________ o'clock _______ .M. on the _______________day of______________________________________,

20______________, by delivering to the within named

____

____

each, in person, a true copy of this Citation together with the accompanying copy of this pleading, having first endorsed on same date of delivery. The distance actually traveled by me in serving such process was _________miles and my fees are as follows: To certify which witness my hand.

For serving Citation	$_________	_______________________________________
For mileage	$_________	of________________County, ________________
For Notary	$_________	By________________________________Deputy

(Must be verified if served outside the State of Texas.)

Signed and sworn to by the said_______________________before me this______day of ___________________, 20_______,

to certify which witness my hand and seal of office.

____

Notary Public_________________County________________

STATE OF TEXAS }
COUNTY OF DALLAS }

I, FELICIA PITRE, Clerk of the District of Dallas County, Texas, do hereby certify that I have compared this instrument to be a true and correct copy of the original as appears on record in my office.

GIVEN UNDER MY HAND AND SEAL of said Court, at office in Dallas, Texas, this 13th day of July, A.D., 2015.

FELICIA PITRE, DISTRICT CLERK
DALLAS COUNTY, TEXAS

By [signature] Deputy

FILED

15 JUN 24 PM 12: 51

FELICIA PITRE
DISTRICT CLERK
DALLAS CO., TEXAS
DEPUTY

FORM NO. 353-3 - CITATION
THE STATE OF TEXAS

To:
MANUEL RETANA
5107 DANA DR
HALTOM CITY TX 76117

GREETINGS:
You have been sued. You may employ an attorney. If you or your attorney do not file a written answer with the clerk who issued this citation by 10 o'clock a.m. of the Monday next following the expiration of twenty days after you were served this citation and petition, a default judgment may be taken against you. Your answer should be addressed to the clerk of the **95th District Court** at 600 Commerce Street, Ste. 101, Dallas, Texas 75202.

Said Plaintiff being **JAIME ANDRES MARTINEZ**

Filed in said Court **18th day of May, 2015** against

TYSON FOODS INC, ELIEZER HERNANDEZ, MANUEL RETANA, AND PETER BERNARD

For Suit, said suit being numbered **DC-15-05828,** the nature of which demand is as follows: Suit on **OTHER (CIVIL)** etc. as shown on said petition **REQ FOR DISCLOSURE,** a copy of which accompanies this citation. If this citation is not served, it shall be returned unexecuted.

WITNESS: FELICIA PITRE, Clerk of the District Courts of Dallas, County Texas.
Given under my hand and the Seal of said Court at office this 16th day of June, 2015.

ATTEST: FELICIA PITRE, Clerk of the District Courts of Dallas, County, Texas

By /s/ Carmen Moorer, Deputy
ALTHA MILES

DISTRICT COURT OF DALLAS COUNTY, TEXAS

Blumberg No. 5119
EXHIBIT
1

ESERVE

CITATION

DC-15-05828

JAIME ANDRES MARTINEZ
vs.
TYSON FOODS INC, et al

ISSUED THIS
16th day of June, 2015

FELICIA PITRE
Clerk District Courts,
Dallas County, Texas

By: ALTHA MILES, Deputy

Attorney for Plaintiff
MARISOL LOPEZ
MARISOL@LAWYERFORU.COM
301 W AVENUE D
GARLAND TX 75094
972-205-1110

DALLAS COUNTY
SERVICE FEES
NOT PAID

OFFICER'S RETURN

Case No.: DC-15-05828

Court No.95th District Court

Style: JAIME ANDRES MARTINEZ

vs.

TYSON FOODS INC, et al

Came to hand on the 17th day of June, 2015, at 1:45 o'clock P.M. Executed at 6350 Browning Court North Richland Hills TX 76180 within the County of Tarrant at 12:57 o'clock P.M. on the 18th day of June, 2015, by delivering to the within named

Manuel Rotana

each, in person, a true copy of this Citation together with the accompanying copy of this pleading, having first endorsed on same date of delivery. The distance actually traveled by me in serving such process was ________ miles and my fees are as follows: To certify which witness my hand.

For serving Citation	$________	[signature]
For mileage	$________	of Dallas County, TX
For Notary	$________	By Jose L Torres III ~~Deputy~~

Authorized Person SCH# 8552 Exp 4/30/17

(Must be verified if served outside the State of Texas.)

Signed and sworn to by the said Jose L Torres III before me this 24th day of June, 2015, to certify which witness my hand and seal of office.

Adrienne Hoffman

Notary Public Dallas County TX

ADRIENNE HOFFMAN
Notary Public
STATE OF TEXAS
My Comm. Exp. 02-15-2016

STATE OF TEXAS }
COUNTY OF DALLAS }

I, FELICIA PITRE, Clerk of the District of Dallas County, Texas, do hereby certify that I have compared this Instrument to be a true and correct copy of the original as appears on record in my office.

GIVEN UNDER MY HAND AND SEAL of said Court, at office in Dallas, Texas, this 13 day of July, A.D., 2015.

FELICIA PITRE, DISTRICT CLERK
DALLAS COUNTY, TEXAS

By ______________________ Deputy

FILED

15 JUN 24 PM 12: 51

FELICIA PITRE
DISTRICT CLERK
DALLAS CO., TEXAS
DEPUTY

FORM NO. 353-3 - CITATION

THE STATE OF TEXAS

To:

TYSON FOODS INC
6350 BROWNING COURT
NORTH RICHLAND HILLS TX 76180

GREETINGS:
You have been sued. You may employ an attorney. If you or your attorney do not file a written answer with the clerk who issued this citation by 10 o'clock a.m. of the Monday next following the expiration of twenty days after you were served this citation and petition, a default judgment may be taken against you. Your answer should be addressed to the clerk of the **95th District Court** at 600 Commerce Street, Ste. 101, Dallas, Texas 75202.

Said Plaintiff being **JAIME ANDRES MARTINEZ**

Filed in said Court **18th day of May, 2015** against

TYSON FOODS INC, ELIEZER HERNANDEZ, MANUEL RETANA, AND PETER BERNARD

For Suit, said suit being numbered **DC-15-05828**, the nature of which demand is as follows:
Suit on **OTHER (CIVIL)** etc. as shown on said petition **REQ FOR DISCLOSURE**,
a copy of which accompanies this citation. If this citation is not served, it shall be returned unexecuted.

WITNESS: FELICIA PITRE, Clerk of the District Courts of Dallas, County Texas.
Given under my hand and the Seal of said Court at office this 16th day of June, 2015.

ATTEST: FELICIA PITRE, Clerk of the District Courts of Dallas, County, Texas

By /s/ Carmen Moorer, Deputy
ALTHA MILES

DISTRICT COURT OF DALLAS COUNTY, TEXAS

ESERVE

CITATION

DC-15-05828

JAIME ANDRES MARTINEZ
vs.
TYSON FOODS INC, et al

ISSUED THIS
16th day of June, 2015

FELICIA PITRE
Clerk District Courts,
Dallas County, Texas

By: ALTHA MILES, Deputy

Attorney for Plaintiff
MARISOL LOPEZ
MARISOL@LAWYERFORU.COM
301 W AVENUE D
GARLAND TX 75094
972-205-1110

DALLAS COUNTY
SERVICE FEES
NOT PAID

Blumberg No. 5119
EXHIBIT
4

OFFICER'S RETURN

Case No. : DC-15-05828

Court No.95th District Court

Style: JAIME ANDRES MARTINEZ

vs.

TYSON FOODS INC, et al

Came to hand on the 17th day of June, 2015, at 1:45 o'clock P.M. Executed at 1999 Bryan St Ste 900 Dallas TX 75201, within the County of Dallas at 11:50 o'clock A.M. on the 23rd day of June, 2015, by delivering to the within named

CT Corporation System, Registered Agent for Tyson Foods Inc

each, ~~in person,~~ a true copy of this Citation together with the accompanying copy of this pleading, having first endorsed on same date of delivery. The distance actually traveled by me in serving such process was _____ miles and my fees are as follows: To certify which witness my hand.

For serving Citation	$_____
For mileage	$_____
For Notary	$_____

[signature]

of Dallas County, TX

By [signature] ~~Deputy~~ Authorized Person SCH # 8552 Exp 4/30/17

(Must be verified if served outside the State of Texas.)

Signed and sworn to by the said Jose L. Torres IV before me this 24th day of June, 2015, to certify which witness my hand and seal of office.

[signature]

Notary Public Dallas County TX

ADRIENNE HOFFMAN
Notary Public
STATE OF TEXAS
My Comm. Exp. 02-15-2016

STATE OF TEXAS }
COUNTY OF DALLAS }

I, FELICIA PITRE, Clerk of the District of Dallas County, Texas, do hereby certify that I have compared this instrument to be a true and correct copy of the original as appears on record in my office.

GIVEN UNDER MY HAND AND SEAL of said Court, at office in Dallas, Texas, this 13 day of July, A.D., 2015

FELICIA PITRE, DISTRICT CLERK
DALLAS COUNTY, TEXAS

By [signature] Deputy

FILED
15 JUN 24 PM 12:51
FELICIA PITRE
DISTRICT CLERK
DALLAS CO., TEXAS
DEPUTY

FORM NO. 353-3 - CITATION
THE STATE OF TEXAS

To:
ELIEZER HERNANDEZ
2917 HALE AVE
FORT WORTH TX 76106

GREETINGS:
You have been sued. You may employ an attorney. If you or your attorney do not file a written answer with the clerk who issued this citation by 10 o'clock a.m. of the Monday next following the expiration of twenty days after you were served this citation and petition, a default judgment may be taken against you. Your answer should be addressed to the clerk of the **95th District Court** at 600 Commerce Street, Ste. 101, Dallas, Texas 75202.

Said Plaintiff being **JAIME ANDRES MARTINEZ**

Filed in said Court **18th day of May, 2015** against

TYSON FOODS INC, ELIEZER HERNANDEZ, MANUEL RETANA, AND PETER BERNARD

For Suit, said suit being numbered **DC-15-05828,** the nature of which demand is as follows: Suit on **OTHER (CIVIL)** etc. as shown on said petition **REQ FOR DISCLOSURE,** a copy of which accompanies this citation. If this citation is not served, it shall be returned unexecuted.

WITNESS: FELICIA PITRE, Clerk of the District Courts of Dallas, County Texas.
Given under my hand and the Seal of said Court at office this 16th day of June, 2015.

ATTEST: FELICIA PITRE, Clerk of the District Courts of Dallas, County, Texas

By /s/ Carmen Moorer, Deputy
ALTHA MILES

DISTRICT COURT OF DALLAS COUNTY, TEXAS

K

Blumberg No. 5119
EXHIBIT
K

VE
ON
5828

ES MARTINEZ
vs.
TYSON FOODS INC, et al

ISSUED THIS
16th day of June, 2015

FELICIA PITRE
Clerk District Courts,
Dallas County, Texas

By: ALTHA MILES, Deputy

Attorney for Plaintiff
MARISOL LOPEZ
MARISOL@LAWYERFORU.COM
301 W AVENUE D
GARLAND TX 75094
972-205-1110

DALLAS COUNTY SERVICE FEES NOT PAID

OFFICER'S RETURN

Case No. : DC-15-05828

Court No.95th District Court

Style: JAIME ANDRES MARTINEZ

vs.

TYSON FOODS INC, et al

Came to hand on the 17th day of June, 2015, at 1:45 o'clock P.M. Executed at 6350 Browning Court North Richland Hills TX 76180 within the County of Tarrant at 3:20 o'clock P.M. on the 18th day of June, 2015, by delivering to the within named

Eliezer Hernandez

each, in person, a true copy of this Citation together with the accompanying copy of this pleading, having first endorsed on same date of delivery. The distance actually traveled by me in serving such process was ________ miles and my fees are as follows: To certify which witness my hand.

For serving Citation	$________
For mileage	$________
For Notary	$________

[signature]

of Dallas County, TX

By Jose L Torres III ~~Deputy~~ Authorized Person SCH # 8552 Exp 4/30/17

(Must be verified if served outside the State of Texas.)

Signed and sworn to by the said Jose L Torres III before me this 24th day of June, 2015, to certify which witness my hand and seal of office.

[signature]

Notary Public Dallas County TX

ADRIENNE HOFFMAN
Notary Public
STATE OF TEXAS
My Comm. Exp. 02-15-2016

STATE OF TEXAS }
COUNTY OF DALLAS }

I, FELICIA PITRE, Clerk of the District of Dallas County, Texas, do hereby certify that I have compared this instrument to be a true and correct copy of the original as appears on record in my office.

GIVEN UNDER MY HAND AND SEAL of said Court, at office in Dallas, Texas, this 13 day of July, A.D., 2015.

FELICIA PITRE, DISTRICT CLERK
DALLAS COUNTY, TEXAS

By_______________Deputy

FILED
15 JUN 24 PM 12:51
FELICIA PITRE
DISTRICT CLERK
DALLAS CO., TEXAS
DEPUTY

FORM NO. 353-3 - CITATION
THE STATE OF TEXAS

To:
PETER BERNARD
720 COURSON DR
DESOTO TX 75115

GREETINGS:
You have been sued. You may employ an attorney. If you or your attorney do not file a written answer with the clerk who issued this citation by 10 o'clock a.m. of the Monday next following the expiration of twenty days after you were served this citation and petition, a default judgment may be taken against you. Your answer should be addressed to the clerk of the **95th District Court** at 600 Commerce Street, Ste. 101, Dallas, Texas 75202.

Said Plaintiff being **JAIME ANDRES MARTINEZ**

Filed in said Court **18th day of May, 2015** against

TYSON FOODS INC, ELIEZER HERNANDEZ, MANUEL RETANA, AND PETER BERNARD

For Suit, said suit being numbered **DC-15-05828**, the nature of which demand is as follows: Suit on **OTHER (CIVIL)** etc. as shown on said petition **REQ FOR DISCLOSURE**, a copy of which accompanies this citation. If this citation is not served, it shall be returned unexecuted.

WITNESS: FELICIA PITRE, Clerk of the District Courts of Dallas, County Texas.
Given under my hand and the Seal of said Court at office this 16th day of June, 2015.

ATTEST: FELICIA PITRE, Clerk of the District Courts of Dallas, County, Texas

By /s/ Carmen Moorer, Deputy
ALTHA MILES

DISTRICT COURT OF DALLAS COUNTY, TEXAS

ESERVE

CITATION

DC-15-05828

JAIME ANDRES MARTINEZ
vs.
TYSON FOODS INC, et al

ISSUED THIS
16th day of June, 2015

FELICIA PITRE
Clerk District Courts,
Dallas County, Texas

By: ALTHA MILES, Deputy

Attorney for Plaintiff
MARISOL LOPEZ
MARISOL@LAWYERFORU.COM
301 W AVENUE D
GARLAND TX 75094
972-205-1110

DALLAS COUNTY SERVICE FEES NOT PAID

Blumberg No. 5119
EXHIBIT

OFFICER'S RETURN

Case No. : DC-15-05828

Court No.95th District Court

Style: JAIME ANDRES MARTINEZ

vs.

TYSON FOODS INC, et al

Came to hand on the 17th day of June, 20 15, at 1:45 o'clock P M. Executed at 6350 Browning Court North Richland Hills TX 76180 within the County of Tarrant at 12:57 o'clock P M. on the 18th day of June, 20 15, by delivering to the within named

Peter Bernard

each, in person, a true copy of this Citation together with the accompanying copy of this pleading, having first endorsed on same date of delivery. The distance actually traveled by me in serving such process was ________ miles and my fees are as follows: To certify which witness my hand.

For serving Citation	$________	[signature]
For mileage	$________	of Dallas County, TX
For Notary	$________	By Jose L Torres III ~~Deputy~~ Authorized Person SCH #8552 Exp 4/30/17

(Must be verified if served outside the State of Texas.)

Signed and sworn to by the said Jose L. Torres III before me this 24th day of June, 20 15, to certify which witness my hand and seal of office.

[signature]

Notary Public Dallas County TX

ADRIENNE HOFFMAN
Notary Public
STATE OF TEXAS
My Comm. Exp. 02-15-2016

STATE OF TEXAS }
COUNTY OF DALLAS }

I, FELICIA PITRE, Clerk of the District of Dallas County, Texas, do hereby certify that I have compared this Instrument to be a true and correct copy of the original as appears on record in my office.

GIVEN UNDER MY HAND AND SEAL of said Court, at office In Dallas, Texas, this 13 day of July, A.D., 2015.

FELICIA PITRE, DISTRICT CLERK
DALLAS COUNTY, TEXAS

By _______________ Deputy

DISTRICT COURT OF DALLAS COUNTY, TEXAS

FILED
DALLAS COUNTY
7/10/2015 9:58:11 AM
FELICIA PITRE
DISTRICT CLERK

SANDRA LANTZ

FELICIA PITRE
DALLAS COUNTY DISTRICT CLERK

NINA MOUNTIQUE
CHIEF DEPUTY

CAUSE NO. DC-15-05828

JAIME MARTINEZ

vs.

TYSON FOODS INC, et al

95th District Court

ENTER DEMAND FOR JURY

JURY FEE PAID BY: DEFENDANTS

FEE PAID: $30.00

Blumberg No. 5119 EXHIBIT M

STATE OF TEXAS }
COUNTY OF DALLAS }

I, FELICIA PITRE, Clerk of the District of Dallas County, Texas, do hereby certify that I have compared this instrument to be a true and correct copy of the original as appears on record in my office.

GIVEN UNDER MY HAND AND SEAL of said Court, at office in Dallas, Texas, this 13th day of July, A.D. 2015

FELICIA PITRE, DISTRICT CLERK
DALLAS COUNTY, TEXAS
By Bonny Johns Deputy

DEP 30 JURY FEE

FILED
DALLAS COUNTY
7/10/2015 9:58:11 AM
FELICIA PITRE
DISTRICT CLERK

Lantz Sandra

DC-15-05828

JAIME ANDRES MARTINEZ,	§	**IN THE DISTRICT COURT**
	§	
Plaintiff,	§	
	§	
v.	§	**OF DALLAS COUNTY, TEXAS**
	§	
TYSON FOODS, INC., ELIEZER HERNANDEZ, MANUEL RETANA, AND PETER BERNARD,	§	
	§	
	§	
	§	
Defendants.	§	**95TH JUDICIAL DISTRICT**

DEFENDANTS' ORIGINAL ANSWER

Defendants, Tyson Foods, Inc., Eliezer Hernandez, Manuel Retana, and Peter Bernard (collectively, "Defendants") files their Original Answer and state the following:

I.
GENERAL DENIAL

1. Defendants deny each and every, all and singular, the material allegations contained within Plaintiff's pleadings and demand strict proof thereof.

II.
JURY DEMAND

2. In accordance with Rule 216 of the Texas Rules of Civil Procedure, Defendants demand a trial by jury.

Defendants pray that Plaintiff take nothing by this suit, that Defendants go hence with their costs without delay, and for such other and further relief, both general and special, at law and in equity, to which Defendants may show themselves justly entitled.

Blumberg No. 5119
EXHIBIT
N

Respectfully submitted,

KANE RUSSELL COLEMAN & LOGAN PC
1601 Elm Street, Suite 3700
Dallas, Texas 75201
214.777.4200 / Fax 214.777.4299

By: /s/ Zach T. Mayer
Zach T. Mayer
State Bar No. 24013118
zmayer@krcl.com
Brian J. Fisher
State Bar No. 24032178
bfisher@krcl.com
J. Kendall Ray
State Bar No. 24076637
kray@krcl.com

ATTORNEYS FOR DEFENDANTS TYSON FOODS, INC., ELIEZER HERNANDEZ, MANUEL RETANA, AND PETER BERNARD

CERTIFICATE OF SERVICE

This is to certify that on the 10th day of July, 2015, a true and correct copy of the foregoing has been forwarded to all counsel of record as follows:

Marisol Lopez
LOPEZ LAW FIRM
301 W. Avenue D
Garland, Texas 75040

COUNSEL FOR PLAINTIFF

- ☐ E-MAIL
- ☐ HAND DELIVERY
- ☒ FACSIMILE
- ☐ OVERNIGHT MAIL
- ☐ REGULAR, FIRST CLASS MAIL
- ☒ E-SERVICE (E-FILE)
- ☐ E -SERVICE (SERVICE ONLY)
- ☐ CERTIFIED MAIL/RETURN RECEIPT REQUESTED

/s/ Zach T. Mayer
Zach T. Mayer

STATE OF TEXAS }
COUNTY OF DALLAS }

I, FELICIA PITRE, Clerk of the District of Dallas County, Texas, do hereby certify that I have compared this instrument to be a true and correct copy of the original as appears on record in my office.

GIVEN UNDER MY HAND AND SEAL of said Court, at office in Dallas, Texas, this 13th day of July, A.D., 2015

FELICIA PITRE, DISTRICT CLERK
DALLAS COUNTY, TEXAS

By [signature] Deputy